

The Joshua School

Title IX Training



WHAT IS TITLE IX?

TITLE IX

“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 of the Education Amendments of 1972; [20 U.S.C. § 1681\(a\)](#)
- ❖ Facility schools are “recipients” of federal funding
- ❖ DOE issued regulations on Title IX in May 2020; into effect August 2020
- ❖ Our focus: sexual harassment

WHAT DOES “SEX” MEAN?

“No person in the United States shall, **on the basis of sex**, be excluded...”

- “Sex” includes:

- Biological sex
- Gender identity
- Sex stereotyping
- Sexual orientation
- “Sex” as a verb



WHAT DOES “EDUCATION PROGRAM OR ACTIVITY MEAN”?

“...under any education program or activity receiving Federal financial assistance.”

- “All of the operations” of a recipient (school district, facility school, etc.); OR
- “Locations, events, or circumstances over which the recipient exercised **substantial control over both the respondent and the context** in which the harassment occurs”; OR
- Incidents that occur off campus, if any of the above conditions are met; AND
- Must happen in the United States

WHAT DOES “EDUCATION PROGRAM OR ACTIVITY MEAN”?

What about off-campus activities? “Off-campus” doesn’t necessarily mean the school is off the hook. Explore further!

- If situation involves allegations of some conduct that occurred outside an education program or activity and some that occurred within the education program or activity, the school must investigate the allegations of conduct that occurred within the education program or activity
 - Example: field trip
- The school can also choose to address allegations of conduct outside its education program or activity via its other procedures



WHAT DOES “EDUCATION PROGRAM OR ACTIVITY MEAN”?

What about cyber bullying? It may raise Title IX issues. Consider:

- Is it based on sex?
- Is the harassment so severe, pervasive, and objectively offensive that it is affecting the complainant’s ability to engage in school?
- Is it occurring during class time? Over a school-designated platform/website? Using school software? Using school wi-fi? Using a school email address? In the process of completing a school assignment?



A SCHOOL'S OBLIGATIONS UNDER TITLE IX: SEXUAL HARASSMENT



Prevent



Investigate



Stop



Remedy

WHAT IS THE SCHOOL'S RESPONSIBILITY UNDER TITLE IX?

A fundamental requirement: “A recipient with **actual knowledge** of **sexual harassment** in an education program or activity of the recipient **against a person** in the United States, must **respond promptly** in a manner that is **not deliberately indifferent.**” 34 C.F.R. 106.44(a)

- ❖ Title IX scope includes Students, Employees, Vendors, Volunteers, Internship Providers/Mentors

THE FUNDAMENTAL REQUIREMENT

“A recipient with **actual knowledge** of sexual harassment in an education program or activity of the recipient **against a person** in the United States, must **respond promptly** in a manner that is **not deliberately indifferent**.” 34 C.F.R. § 106.44(a)

“Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or . . . to any employee of an elementary and secondary school”

“[A] recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances”

- Examples: failure to investigate; failure to inform law enforcement or parents/guardians; failure to discipline offender; failure to take additional steps if harassment continues

WHAT *IS* SEXUAL HARASSMENT?

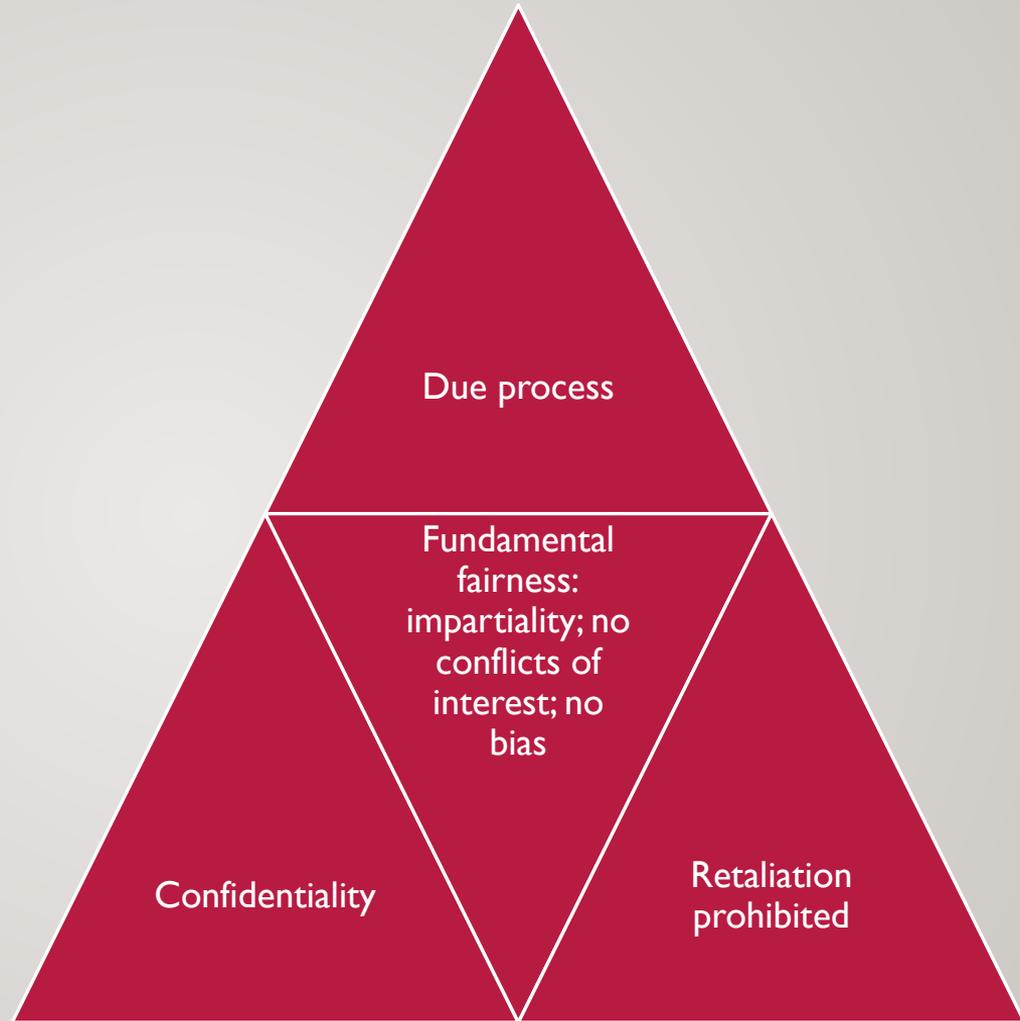
- (1) Quid pro quo: A school employee conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct; OR
- (2) “Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity”; OR
- (3) Sexual assault, dating violence, domestic violence, or stalking, as defined in law

OVERVIEW OF REQUIREMENTS

Checklist of requirements for K-12 schools:

- ❑ Adopt a Title IX policy
- ❑ Identify a Title IX coordinator
- ❑ Establish grievance process that complies with regulations
- ❑ Train personnel
- ❑ Ensure effective documentation procedures are in place
- ❑ Publish and publicize Title IX Coordinator contact information, policy and process, and training materials

GENERAL PRINCIPLES





POLICY

NONDISCRIMINATION STATEMENT

OVERVIEW OF REQUIREMENTS

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TJS NONDISCRIMINATION POLICY STATEMENT

The Joshua School does not unlawfully discriminate in employment opportunities and/or practices on the basis of race, color, ancestry, national origin, citizenship, age, physical or mental disability, pregnancy, religion, gender, gender identity, sexual orientation, U.S. military status, genetic characteristics, or any other characteristic protected by federal, state, or local law.

The Joshua School complies with Title IX.

WHO ARE WE GIVING NOTICE OF OUR POLICY

- Who needs notice?
 - Applicants for admission and employment
 - Students
 - Parents or legal guardians
 - Employees
- How to give notice?
 - Website
 - Student/family handbook
 - Employee handbook

Definitions

- Complainant: alleged victim
- Respondent: alleged perpetrator
- Title IX Coordinator:
 - employee who is first point of contact for all matters relating to Title IX compliance efforts
- Formal complaint:
 - Triggers obligation to follow grievance process
 - Can be filed by complainant, parent/guardian, or Title IX Coordinator
 - At the time of filing, the complainant must be participating or attempting to participate in your education program or activity. E.g., a former student cannot file a formal complaint

Definitions

- Investigator: may be the Title IX Coordinator
- Decision-maker: may not be the Title IX Coordinator or Investigator
- Education program or activity: i.e., what the school is responsible for

- Sexual harassment:

(1) A school employee conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct

(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's education program or activity"

(3) Sexual assault, dating violence, domestic violence, or stalking, as defined in law

Definitions

- Supportive measures:
 - non-disciplinary, non-punitive, individualized services offered to the parties
 - Title IX Coordinator is responsible for offering to complainant *and* respondent
 - Purpose: enable party to access the school's education program or activity
- Advisor:
 - Any party may choose to have an advisor present during meetings or proceedings; an advisors participation in the process may be limited.
 - May not speak on behalf of the party or appear on behalf of the party when the party's attendance is expected.

The image features three black silhouettes of business professionals against a light background with faint gear patterns. On the left, a woman stands with her arms crossed. In the center, a man stands with his hands on his hips. On the right, a woman stands with her hands on her head. A dark grey horizontal bar is positioned across the middle of the image, containing the text 'YOUR TITLE IX PERSONNEL' in white, uppercase letters. A thin blue horizontal line is located directly below the text.

YOUR TITLE IX PERSONNEL

OVERVIEW OF REQUIREMENTS

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- Adopt a Title IX policy
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TITLE IX TEAM

Training for these staff members must include:

- Definition of sexual harassment
- The scope of the school's education program and activity
- How to conduct an investigation and grievance process
- How to serve impartially

Title IX
Coordinator
(HR)

Decision-maker
(Executive
Director)

Investigator
(HR Director)

Appeals
decision-maker
(TJS Board
Member)

Optional

Informal
resolution
facilitator

COORDINATOR

Making Great Things Happen

THE JOSHUA SCHOOL'S TITLE IX
COORDINATOR
Palmer Brooks
Human Resources
pbrooks@joshuaschool.org

RESPONSIBILITIES OF TITLE IX COORDINATOR

- Ensure compliance with Title IX
- Know the school's policies and procedures
- Coordinate the school's response to all complaints or notices of sex discrimination
- Stay up to date on Title IX and gender equity issues
- Manages the complaint and grievance processes

FACTORS TO CONSIDER WHEN CHOOSING A COORDINATOR

Independence

Authority

Position relative to senior leadership

Familiarity with other state and federal laws and regulations

Unlikely to be a full-time job

Can designate multiple coordinators



GRIEVANCE PROCEDURE

OVERVIEW OF REQUIREMENTS

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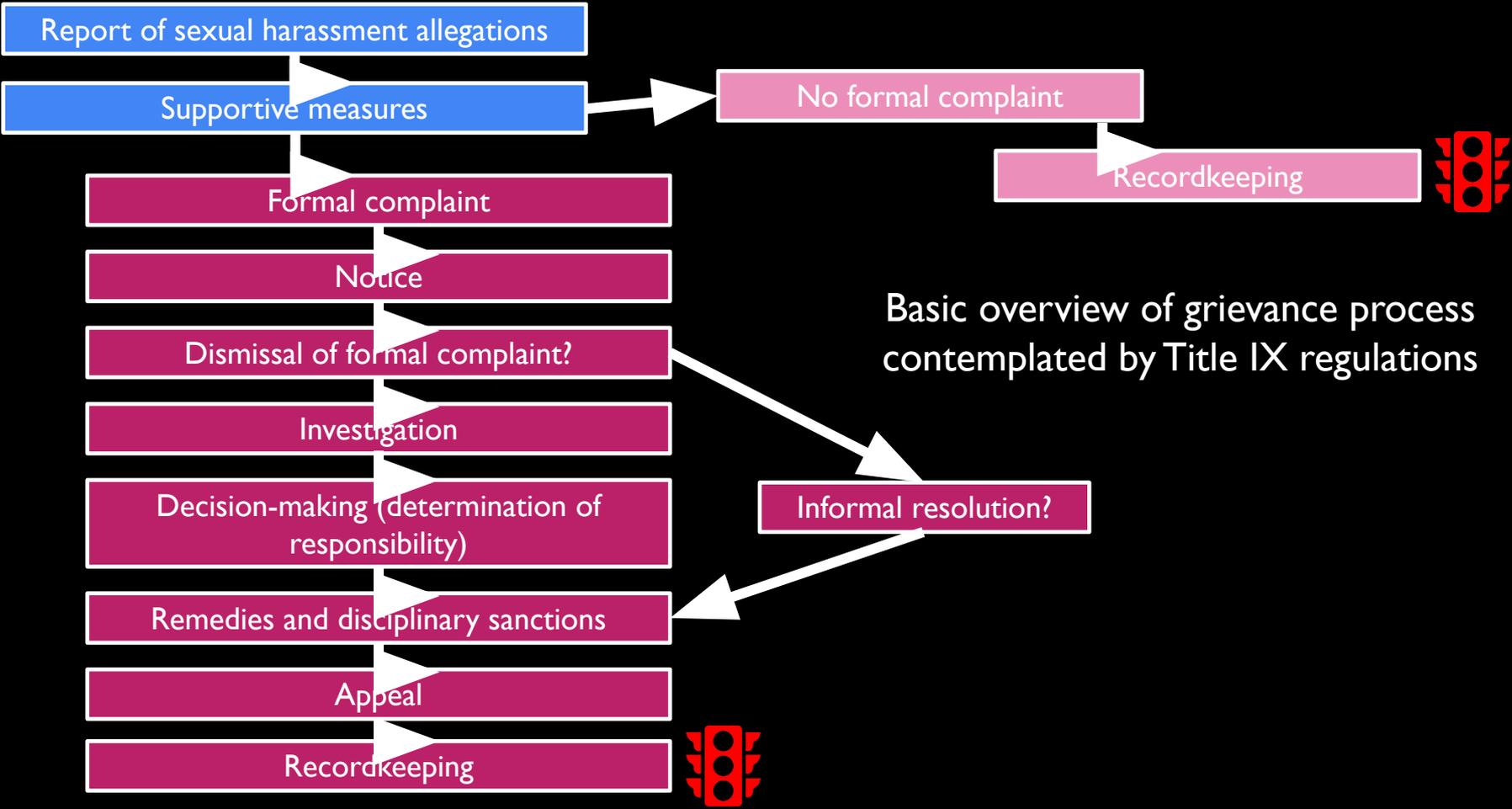
Initiating a Complaint

- Reports of Sexual Harassment
 - *All* school employees with notice (actual knowledge) of allegations of sexual harassment must report them to Title IX Coordinator.

- First step :
 - **Contact Title IX Coordinator to report allegation of sexual harassment**
 - All claims are taken very seriously and acted upon immediately with complete confidentiality
 - Supportive measures may be offered at this time
 - Decision to either file formal complaint or not, attempt to resolve informally or withdraw complaint

- Fair and Equitable Process
 - Ensures no conflicts of interest or bias
 - Presumption of non-responsibility

- Supportive Measures
 - Title IX Coordinator is responsible for offering supportive measures to both the complainant *and* respondent
 - Purpose: enable each party to access the school's education program or activity
 - An example of a supportive measure may be alternate reporting lines



Report of sexual harassment allegations

Supportive measures

No formal complaint

Recordkeeping

Formal complaint

Notice

Dismissal of formal complaint?

Investigation

Decision-making (determination of responsibility)

Informal resolution?

Remedies and disciplinary sanctions

Appeal

Recordkeeping

Basic overview of grievance process contemplated by Title IX regulations

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POST AND PUBLICIZE INFORMATION

- What we will post and publicize?
 - Title IX policy
 - grievance procedures
 - Title IX Coordinator contact information
 - All training materials
- Who needs to be able to access this easily?
 - Applicants for admission or employment
 - Students
 - Parents or legal guardians
 - Employees
 - Unions and other professional organizations with a presence in your school
- How to do this?
 - Website
 - Student/family handbook
 - Employee handbook



QUESTIONS?

Don't hesitate to contact Palmer Brooks
PBrooks@JohsuaSchool.org

