

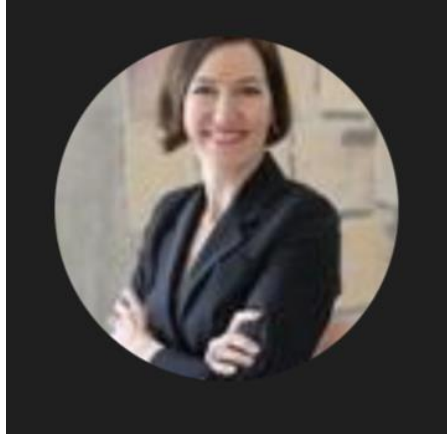


Title IX Training

**HUMAN RESOURCES
and
SCHOOLS TEAM**

September 23, 2022

Tri-Facilitators



JESSICA NEYMAN

VP of Human Resources



*Provisional Registered Provider of
TEA Governance Training*



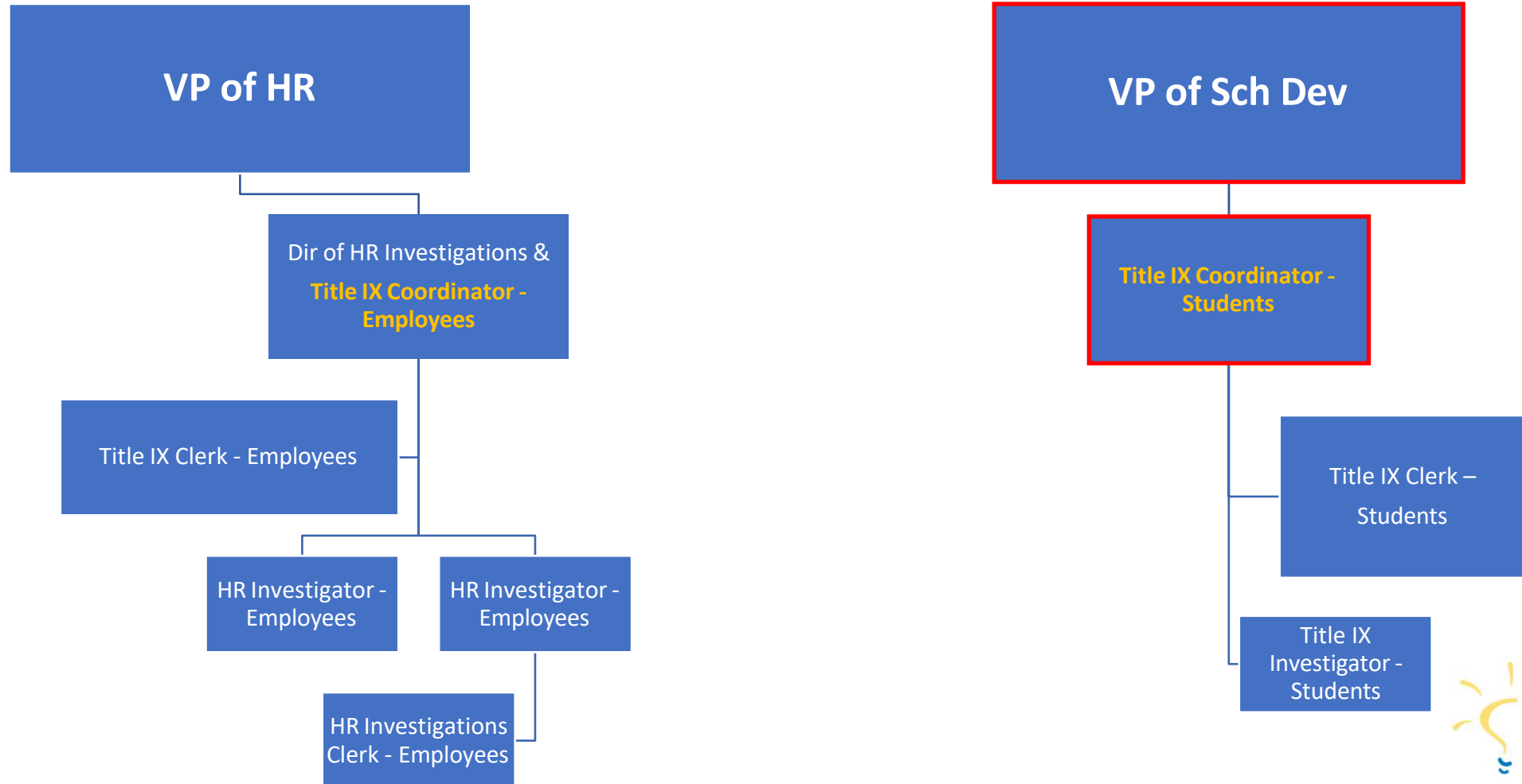
Dr Richard Segovia, JR
Director of Investigations
Human Resources



Aisha Gutierrez
Title Ix Investigator
Human Resources

Title IX Compliance Support Employees & Scholars

22-23 School Year



Agenda

Note: Do not leave this training until you have received your Roadmap certificate at the end of the training. Thank you.



Time	Topic
25 min	Overview of Title IX: law, definitions, and responsibilities
15 min	Application: Scenarios and Discussion
10 min	Q&A
10 min	Exit ticket and survey completion

Objectives

Principals & Managers will be able to:

- Describe the purpose of Title IX
- Define Sexual Harassment
- Apply Title IX processes to IDEA scenarios
- Explain differences in roles & processes that support resolution of student versus employee Title IX matters

Title IX Overview

IDEA's Title IX **Statement of Nondiscrimination:**

IDEA Public Schools ("IDEA") prohibits discrimination, including harassment, against any student or employee on the basis of sex. Retaliation against anyone involved in the Formal Complaint is a violation of IDEA policy and is prohibited.

Title IX Overview

Definition of Sexual Harassment at IDEA:

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

1. An employee of IDEA **conditioning the provision of** an aid, benefit, or service of IDEA 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 IDEA’s education program or activity; or
3. “**Sexual assault**” as defined in 20 U.S.C. 1091(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).

Title IX Overview

Definition of Sexual Harassment at IDEA:

CFU: What's an example of #1 below?
(put in Chat)

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

1. An employee of IDEA conditioning the provision of an aid, benefit, or service of IDEA 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 IDEA's education program or activity; or
3. “**Sexual assault**” as defined in 20 U.S.C. 1091(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).

Title IX Overview

Definition of Sexual Harassment at IDEA:

CFU: What's an example of #2 below?
(put in Chat)

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

1. An employee of IDEA **conditioning the provision of** an aid, benefit, or service of IDEA 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 IDEA's education program or activity; or
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Title IX Overview

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1. An employee of IDEA **conditioning the provision of** an aid, benefit, or service of IDEA 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 IDEA’s education program or activity; or
3. **“Sexual assault”** as defined in 20 U.S.C. 1091(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).

Clarification on Definitions

- Sexual Assault, Dating Violence, Domestic Violence, and Stalking are **not** evaluated for severity, pervasiveness, offensiveness, or denial of equal education, because such misconduct is sufficiently serious to deprive a person of equal access.
(if law enforcement involved, we defer to them)

- But **is** evaluated for Scope of School's Educational Program or Activities

What is the *Scope* of a School's Educational Program or Activities?

- On school property, including vehicles
- School sanctioned events
- School exercises “substantial control” over both the respondent and the context in which the sexual harassment occurs

Criteria for Title IX Sexual Harassment

Does it meet the definition of Sexual Harassment under Title IX?	
<u>Behavior</u>	<u>Criteria</u>
Quid Pro Quo	When an individual (student or staff) suffers a tangible adverse action because of the individual's refusal to submit to a person of authority's , or perceived authority's, sexual demands
Unwelcome Sexual Conduct	Must be severe, pervasive, <u>AND</u> objectively offensive
Sexual Assault	Did it happen at school or a school related event or activity? Within "Scope of Educational Program or Activities"

IF NOT: Address through Student Code of Conduct or Employee Discipline

Roles to be Familiar With

- Title IX Coordinator
- Complainant (no longer called “victim”)
- Respondent (no longer called “assailant”)

...Roles cont. – Appeals Process

- **Decision-maker**

- Cannot be the Coordinator or Investigator

- **Appeals Officer**

- Cannot be the Coordinator, Investigator, or the Decisionmaker

- **Informal Resolution Facilitator**

- Must be trained/competent in resolving disputes

Roles

Roles T-Chart

Strictly Students Involved

Title IX Coordinator: **Israel Ybarra**

Title IX Investigator: **Aisha Guiterrez**

Decision Maker: **Ernesto Cantu**

Appeals Officer: **Jeffrey Cottrill**

Informal Review Facilitator: **Aisha Guiterrez**

Employee Involved

Title IX Coordinator: **Harold Schuman**

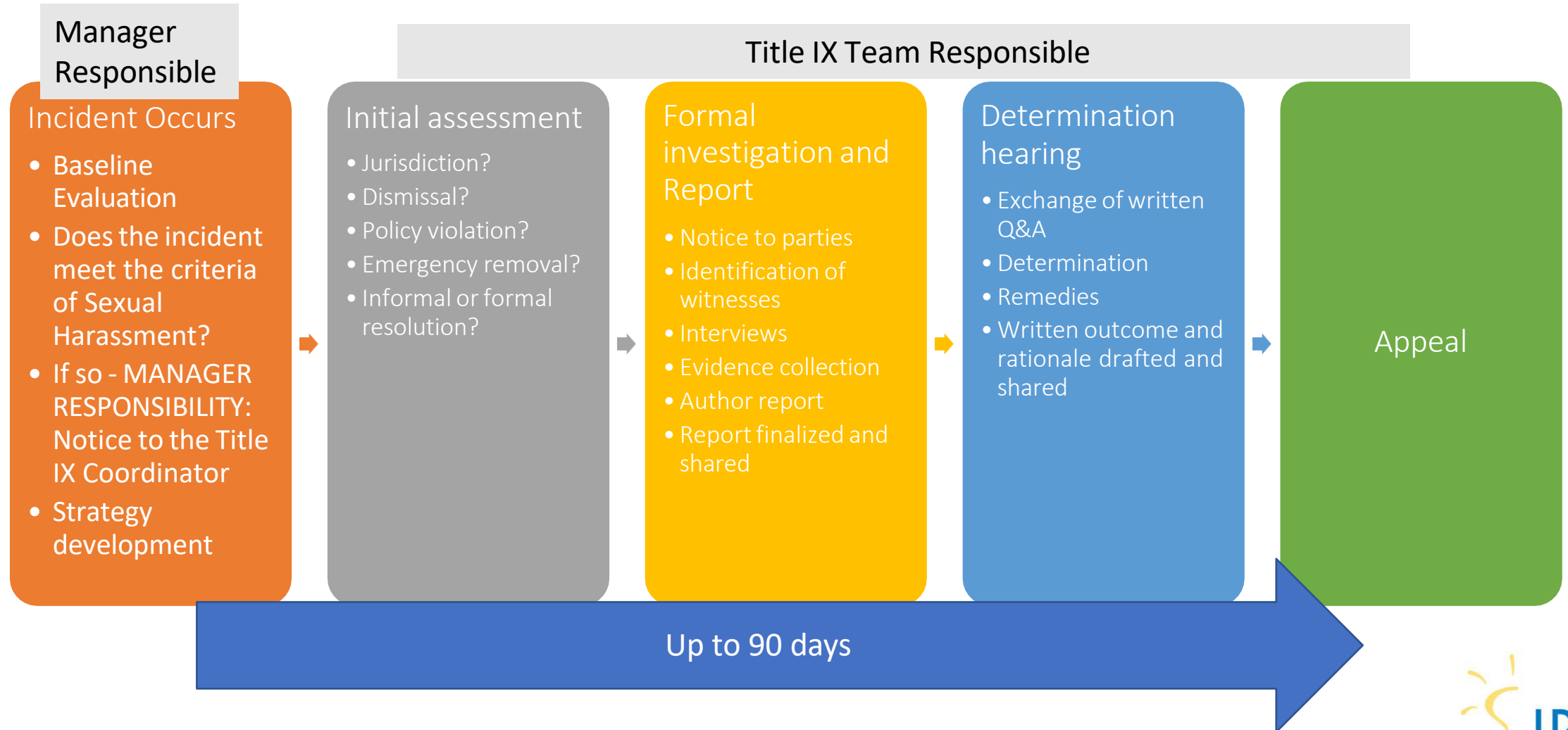
Title IX Investigators: **Elvira Banda**

Decision Maker: **Jessica Neyman**

Appeals Officer: **Martin Winchester**

Informal Review Facilitators: **Harold Schuman and Elivira Banda**

Process Overview



Reporting a Title IX allegation

Who **can** file a report or informal complaint?

- Any person at any time – cannot be ignored

Who is **required** to file or forward a report?

- All school employees when they observe, hear about, or have any notice of sexual harassment or allegations of sexual harassment.

Processing Complaints

- **Formal Complaints **MAY** be filed by:**
 - *Student Report*
 - *Parent Report*
 - *Employee Report*
- **Who is **REQUIRED** to file or forward a report?**
 - All school employees when they observe, hear about, or have any notice of sexual harassment or allegations of sexual harassment (student or staff).
- **If no formal Complaint,** then Title IX Coordinator's discretion to become Complainant by proxy
- **Informal Resolution**

Formal Complaints

Must use IDEA's form, must allege sexual harassment of self or others, must sign:



IDEA HEADQUARTERS
2115 W. Pike Blvd.
Weslaco, TX 78596



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FORMAL COMPLAINT FORM TITLE IX SEXUAL HARASSMENT

Instructions: If you believe you have been subjected to sexual harassment, please complete this form, sign where indicated below, and submit the completed form by hand delivery, email, or U.S. mail to the following individual:

Jessica Neyman
Vice President of Human Resources
titleixconcern@ideapublicschools.org
2115 W. Pike Blvd, Weslaco, TX 78596

This Formal Complaint Form is designed for use by a "complainant," meaning an individual alleged to be the victim of conduct that could constitute sexual harassment. If the complainant is a minor, the form may be signed by a parent or legal guardian who may act on behalf of a minor during the school's Formal Complaint process.

If you are not a complainant (or a parent / guardian of a minor complainant) and you would like to report possible sexual harassment against another person in the school's educational program or activities, please report your concerns to the school's Title IX Coordinator (as identified above) so that IDEA Public Schools may take appropriate action.

Please note that, under Title IX and its implementing regulations, only an alleged victim of sexual harassment who is participating in the school's education program or activity in the United States (for instance, a student or applicant for admission or an employee or applicant for employment) is able to file a Formal Complaint of sexual harassment to initiate IDEA Public School's grievance process under Title IX.

If, after reviewing the completed Formal Complaint Form, IDEA Public Schools determines that the allegations in the Formal Complaint do not meet Title IX's definition of sexual harassment or did not occur in the school's education program or activity against a person in the United States, or may otherwise be dismissed under the Title IX regulations, IDEA Public Schools may dismiss the Formal Complaint and proceed under another applicable policy concerning discrimination and/or harassment.

Please also understand that IDEA Public Schools cannot guarantee to keep information provided through a Formal Complaint confidential in all respects, as the Title IX regulations require disclosure of information related to Formal Complaints in certain circumstances. IDEA Public Schools will also handle student information in accordance with the regulations set by the Family Educational Rights and Privacy Act ("FERPA").

Please print or type when completing this form.
You may also attach additional pages describing your complaint if necessary.

Complainant Name _____
Address _____
Telephone Number _____
Email Address _____

If you are a parent or guardian completing this form on behalf of a minor complainant, please provide your contact information:

Name _____
Address _____
Telephone Number _____
Email Address _____

A complainant has the right to be represented by an advisor during the Formal Complaint process. An advisor may be, but is not required to be, an attorney. If you will be represented by an advisor in presenting your Formal Complaint, please provide the name and contact information of your advisor. If unknown at this time, you may provide the information at a later time.

Advisor Name _____
Title _____
Address _____
Telephone Number _____
Email Address _____

Please describe the facts and circumstances of the alleged sexual harassment related to this Formal Complaint, and provide as much detail as possible regarding the reported incident. Additional sheets may be attached as necessary; please indicate how many additional pages being provided to ensure complete receipt of your Formal Complaint.

Please sign below and return to the Title IX Coordinator identified above.

Complainant Name _____

Complainant Signature _____

Parent Name (if complainant is under 18) _____

Parent Signature (if complainant is under 18) _____

Date of Filing _____

If this Formal Complaint Form is being filed by IDEA Public School's Title IX Coordinator instead of a complainant:

Title IX Coordinator Name _____ Jessica Neyman

Signature _____

Date of Filing _____

Informal Resolution Process

- Cannot be mandatory
- Cannot be offered until after formal complaint is filed
- Cannot be offered if the complaint is against an employee
- Must obtain voluntary written consent, with other specific requirements
- Mediation, restorative practices, and other alternative resolution procedures in limited circumstances.
- Approach carefully and ensure facilitators are trained in the methods being utilized.

Our Responsibilities

- Respond promptly when actual knowledge of allegations is received
- Response can't be deliberately indifferent, i.e. "clearly unreasonable in light of the known circumstances"
 - Take action to protect parties (supportive measures)
 - Investigate
 - Inform law enforcement when necessary (e.g., CPS report within 48 hours)
 - No retaliation
 - Take appropriate remedial action, including discipline
 - Take steps to stop the offenses in the future

“Supportive Measures”

- Non-punitive individualized services offered as appropriate and without charge to a complainant or a respondent
- Must be designed to preserve educational access without unreasonably burdening the other party
 - Schedule changes
 - Class changes
 - Course modifications
 - Counseling resources
 - Deadline extensions for assignments
 - Mutual restrictions on contact
 - Monitoring/supervision
 - Online Learning
 - Might warrant IEP change to meet special needs
 - Other

Emergency Removal of Respondent

- **Students:** When necessary to protect the complainant or others from immediate threat to physical health or safety
 - Must be based on an individualized threat and safety analysis
 - May not be solely for emotional or mental health reasons
 - After the removal, the school must give the student notice and an opportunity to challenge the removal
 - Consider interplay with other laws (IDEA, etc.)
- **Employees:** Paid administrative leave at the discretion of employer/school (consider contractual issues for districts)

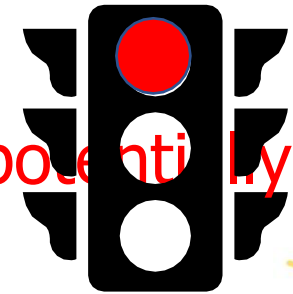
Principal / Manager First Steps:

While remaining completely neutral:

1. Refer all Title IX matters (student-on-student or employee involved) to the Title IX Coordinator: TitleIXConcern@ideapublicschools.org
2. Contact the complainant (formally known as 'victim')
3. Discuss supportive measures
4. Explain formal complaint next step – will get packet in email

STOP

Do not perform any investigatory work because doing so potentially violates the rights of the complainant and respondent!



“Playbook” for Principal/Manager

Contact alleged complainant/victim & follow steps exactly as outlined in Title IX Coordinator’s emailed instructions:

Principal [insert name],

Thank you for sending this student-on-student incident to the Title IX inbox.

- **Campus:** Required notice to Complainant’s parents to let them know what was alleged, that required Title IX information will be sent to them that includes an optional formal Complaint Form, and to discuss/offer supportive measures allowable under Title IX as the matter is being reviewed (see attached, which may be shared with parents). *If student receives special education services, then please know that supportive measures may require a change to student’s IEP, which requires hosting an ARD/IEP meeting to propose these changes and obtaining parental consent. In the meantime, only put stop-gap supportive measures in place that do not violate these special education rules.*
- **Campus:** Only remove the alleged Respondent(s) student according to the following criteria:
Emergency Removals: IDEA may remove a respondent from IDEA’s education programs or activities on an emergency basis if IDEA undertakes an individualized safety and risk analysis and determines that an immediate threat, arising from the allegations of sexual harassment to anyone’s physical health or safety justifies removal. This risk analysis must involve more than a generalized, hypothetical, or speculative belief that the respondent may pose a risk to someone’s physical health or safety. Additionally, IDEA must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. IDEA’s ability to initiate an emergency removal does not override or modify the rights of individuals under the Individuals with Disabilities Education Act, Section 504, or the Americans with Disabilities Act.
- **Title IX HR Clerk:** Mail parent formal complaint packet w/ 10-day deadline. If formal complaint’s rec’d and would constitute Title IX if proven, then both Complainant & Respondent’s parents will be sent written notice.
- **If no formal complaint rec’d:** Title IX Coordinator will either become the Complainant by proxy or the matter will be referred to the campus to process locally in accordance with the Student Code of Conduct, etc.

Please don’t hesitate to reach out if you need additional guidance,

Dr Richard Segovia, JR
Director of Investigations



Title IX Coordinator's Responsibility in a Formal Complaint Process

- Provide to all known parties:
 - Written notice of the allegations with sufficient time to prepare a response before any initial interview
 - A copy of the grievance process
 - The written notice must include:
 - A statement that the respondent is presumed not responsible for the alleged conduct
 - Inform the parties that they may have an advisor of their choice (i.e. an attorney, parent, counselor, etc.)
 - Inform the parties that each may inspect and review all of the evidence. (Whatever is sent to one, must be sent to the other party)
 - Inform the parties of any provision in the school's code of conduct prohibiting making knowingly false statements or submitting false information during the grievance process.

Dismissal of Formal Complaint

- **Must** be dismissed (but can still be addressed under school's discipline code) IF:
 - Would not constitute sexual harassment, as defined, even if proved
 - Did not occur in the school's educational program or activities, or
 - Did not occur against a person in the United States
- **May** be dismissed in the school's discretion if:
 - Complainant notifies the Title IX Coordinator in writing of a desire to withdraw the formal complaint or any allegation
 - The respondent is no longer enrolled or employed by the school
 - Certain circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint or allegations

Agenda

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Time	Topic
25 min	Overview of Title IX: law, definitions, and responsibilities
15 min	Application: Scenarios and Discussion
10 min	Q&A
10 min	Exit ticket and survey completion

Scenario 1

- Two 18-year-old scholars have been dating for a year. Scholar A has complained that scholar B "sometimes hits me". As a result, scholar A, once a straight A student, is failing in more than one class.
- Does this warrant a Title IX investigation?
- What steps would you take?

Principal/Manager First Steps:

While remaining completely neutral:

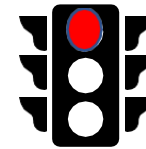
1. Refer the matter to the Title IX

Investigator: TitleIXConcern@ideapublicschools.org

2. Contact the complainant (formally known as 'victim')

3. Discuss supportive measures

4. Explain formal complaint filing process



STOP

Do not perform any investigatory work because doing so potentially violates the rights of the complainant and respondent!

Scenario 2

- A 15-year-old scholar reported that while riding the school bus, the bus driver said, “put your behind on a seat quickly.” The scholar said they felt “uncomfortable” because the bus driver looked at them “weird.” This was a first-time event.
- Does this warrant a Title IX investigation?
- What steps would you take?

Title IX Overview

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1. An employee of IDEA **conditioning the provision of** an aid, benefit, or service of IDEA 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 IDEA’s education program or activity; or
3. “**Sexual assault**” as defined in 20 U.S.C. 1091(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).

Scenario 3

- Two 8th grade scholars reported that another scholar took a photograph of them while they were using the toilet in the restroom. This was a one-time event.
- Does this warrant a Title IX investigation?
- What steps would you take?

Principal/Manager First Steps:

While remaining completely neutral:

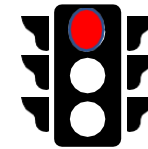
1. Refer the matter to the Title IX

Investigator: TitleIXConcern@ideapublicschools.org

2. Contact the complainant (formally known as 'victim')

3. Discuss supportive measures

4. Explain formal complaint filing process



STOP

Do not perform any investigatory work because doing so potentially violates the rights of the complainant and respondent!

Title IX Investigation Turn-Around Time

Bottom Line:

- Students and employees entitled to a timely and comprehensive investigation of their complaint.
- Because of required notifications, gathering and analyzing facts, documents, and records, and drafting reports, IDEA attorneys advise that it is challenging to complete an entire investigation in less than 90 days reasonable for a typical investigation, complex investigations may require additional time.

Key Takeaways

- IDEA prohibits discrimination, including harassment, against any student or employee based on sex.
- Sexual Harassment has a 3-prong definition that's also on HR's principal/manager one-pager from your Reg/Nat'l HR Director (*if in doubt, refer it out!*)
- You can refer possible Title IX allegations (student-on-student or employee involved to:
 - TitleIXconcern@ideapublicschools.org
- There are two Title IX investigations teams:
 - Only students related
 - Staff involved (staff-on-staff or staff-on-student)
 - Referrals are triaged between 24-48 hours
- All Sexual Harassment cases must follow the Title IX investigation procedures outlined here today.

Agenda

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25 min	Overview of Title IX: law, definitions, and responsibilities
15 min	Application: Scenarios and Discussion
10 min	Q&A
10 min	Exit ticket and survey completion

Questions?



Agenda

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Roadmap Credit Instructions

1. Click the [Roadmap Link](#) & hit the blue START THE PROGRAM button.
2. START the survey course.
3. COMPLETE & SUBMIT the embedded survey then the blue NEXT button.
4. Click YES that you attended then SUBMIT.
5. Scroll down and click the blue COMPLETE COURSE button on Roadmap. If you have issues submitting, email roadmap@ideapublicschools.org

CONGRATULATIONS! YOU HAVE COMPLETED THIS PROGRAM

Will this be useful to you?

 YES, I'LL USE THIS!   3	 I DON'T THINK SO  0
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Objectives – How'd We Do?

- ✓ Equip managers on how to address sexual harassment claims
- ✓ Provide overview of Title IX requirements
- ✓ Explain purpose of a required Title IX investigation
- ✓ Share key Title IX definitions
- ✓ Practice identifying situations that may require Title IX referrals
- ✓ Outline the referral process to the Title IX Coordinator
- ✓ Highlight key differences in student & employee workflows
- ✓ Understand role of the principal/manager in Title IX workflow

FOLLOWING SLIDES OFFER ADDITIONAL RESOURCES

FAQs

- **Are Title IX investigations confidential?**
 - If someone under 18 is involved there are mandatory report laws that we need to follow.
 - School staff is required to report allegations that might violate Title IX laws to the Title IX coordinator.
 - The Title IX process allows all parties to review statements, evidence, etc.
- **Who does Title IX protect?**
 - Students and staff in school educational programs and activities
- **What accommodations are available without an investigation?**
 - support services like counseling or academic tutoring;
 - changed course schedules, assignments, or exams;
 - increased supervision or security at locations or activities where the violence occurred
- **Can a school force a student to leave school?**
 - Title IX prohibits the school to force a student to leave if the student is a complainant
 - Title IX allows schools to remove a respondent from school on an emergency basis

Confidentiality

- Must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator, any respondent, and any witness except as:
 - Permitted by FERPA
 - Required by law
 - Or to carry out the purposes of Title IX

Decision-making Process

- Must objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence.
- Credibility determinations cannot be based on a person's status as complainant, respondent, or witness.
- Must not rely on sex stereotypes.
- Providing for a hearing prior to the final decision is optional for K-12 schools; most are not, and we recommend not - many more complicated rules come into play.

Appeal Process

- Written determination is provided to both parties simultaneously
- At least a 10-day period is allowed for parties to request appeal
- Must be offered to both parties
 - Including if a formal complaint is dismissed
- Required bases for appeal
 - Procedural irregularity that affected the outcome
 - New evidence that was not available and could affect the outcome
 - Conflict of interest/bias
 - Additional bases may be added, so long as equally available to both parties

Appeal Process (cont.)

- If an appeal is filed
 - Notification to other party in writing of the process
 - Give both parties same, equal opportunity to submit written statement in support of, or challenging, the outcome of the decision-maker's conclusions
 - Same evidentiary standard
- Issue a written decision with rationale, provided to both parties simultaneously (may be notified simultaneously, recommend signature upon receipt)

What is "Sexual Harassment"?

- Quid Pro Quo. An employee of the school conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct.
- Unwelcome Conduct (Severe and Pervasive and Objectively Offensive) that effectively denies a person equal access to the recipients education program or activity.
 - Examples: unwelcome or unlawful sexual advances, sexual touching, comments, jokes, depictions, stories, etc. Must be based on sex (see definition).
- Sexual assault, dating violence, domestic violence, or stalking

What is "Sexual Assault"?

- A sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including as follows:
 - Forcible Rape – means the carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity
 - Forcible Sodomy – means oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

What is "Sexual Assault" (cont.)?

- Sexual Assault with an object – means the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body or another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
- Forcible Fondling - means the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against the person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity

What is “dating violence”?

- The term “dating violence” means violence committed by a person—**(A)**who is or has been in a social relationship of a romantic or intimate nature with the victim; and **(B)**where the existence of such a relationship shall be determined based on a consideration of the following factors:**(i)**The length of the relationship. **(ii)**The type of relationship. And **(iii)**The frequency of interaction between the persons involved in the relationship.

What is “domestic violence”?

- The term “domestic violence” includes felony or misdemeanor crimes 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 receiving grant monies, 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.

What is “stalking”?

- The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—**(A)** fear for his or her safety or the safety of others; or **(B)** suffer substantial emotional distress.

Retaliation

- No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX . . . or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing . . .
- Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

Retaliation (cont.)

- Complaints alleging Title IX retaliation should follow the same grievance process
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith, materially false statement.

Knowledge Check

- Who must comply with Title IX?
- Which interactions does Title IX cover?
- What are some examples of sexual harassment?
- What are some examples of sexual assault?
- What is retaliation?
- What is the scope of a school's educational program or activities?

What is “relevance” in the investigation?

Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence (no definition in the regulations).

- Evidence that makes a material fact more or less likely to be true.
- Questions to ask: Is the evidence helpful in making a determination as to whether or not a fact is more or less likely to be true? Does this evidence help to prove or disprove anything material to the investigation?

Relevance (cont.)

- Cannot require disclosure of privileged information, including attorney-client communications, a party's medical, psychological, and similar records. Can only be used with that party's voluntary written consent.
- Rape Shield Protections
 - Evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless:
 - Such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
 - If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Record Keeping

- HR & Schools Team Case Management Systems (“CMS”)
- Maintain for seven (**7**) years
 - All investigation records
 - Appeal records
 - Records of any informal resolution
 - Training materials
 - Confirmation of parties’ receipt and responses to all the above