



Idaho K-12 Title IX PLC #2

Investigations 101





Road Map

- Sexual Harassment reported
- Formal complaint
- Notice of allegations
- Investigation
- Decision
- Appeal





Roles in Title IX Investigation

- Complainant
- Respondent
- Parent/Guardian
- Advisor
- Witnesses
- Investigator
- Title IX Coordinator



Investigation Procedure

- Written Complaint
- Notice of Allegations
 - Wait 10 days to interview Respondent
- Investigation
- Review Evidence
 - 10 days to respond to evidence
- Investigation Report
- Decision Maker
 - 10 days to respond to report



Formal Complaint

- Document - paper, email, online form
- Signed by student/parent/guardian
- Allege sexual harassment AND request investigation
- No Statute of Limitations



Supportive Measures

- Fluid
- Bilateral
- Preserve equal access to education
- No Contact Orders
- Change of Classes
- Can't be Discipline
- Removal from School?
 - Immediate threat of physical health or safety to others
 - Individualized safety and risk analysis
 - Right to appeal



Notice of Allegations

- Explain general process
- Identify Investigator
- Explain supportive measures
- Include alleged behavior
 - Parties, conduct, time, location
- Statement presumed not responsible
- Right to advisor of choice
- Explain informal resolution
- No retaliation
- No false statements
- Include a copy of your policy/procedure
- After issuing Notice, must wait 10 days to interview Respondent
 - Interview others in the meantime



Investigation

- Burden of Proof is on the School
- Equal opportunity to present witnesses and evidence
- Witnesses
 - Can't force interviews
 - No subpoena power
 - Contact parents first
- Equal opportunity to review all evidence
 - 10 days to review all evidence
- Investigation Report
 - 10 days to comment on report



Grounds to Dismiss

Must Dismiss:

- If true, would not constitute sexual harassment as defined in regulations.
- Did not occur in District program or activity
- Did not occur against person in the U.S.

May Dismiss

- Complainant withdraws in writing.
- Respondent unenrolls or no longer employed.

Written Notice of Dismissal

- To all parties.



Sexual Harassment Defined

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

1. Quid pro quo
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 recipient's education program or activity; or
3. "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.



Does Title IX Apply?

- **Complainant:**
 - Student or Staff - no third parties
- **Respondent:**
 - Do we have substantial control?
- **Program or Activity**
 - Substantial control over the context
 - On campus, online class
 - Property owned by school
 - Program sponsored by school





Interviews - practical tips

- **Record**
 - Use AI to transcribe
- **Impartial**
 - Don't prejudge facts
 - No conflict of interest
 - No leading questions
- **Either party allowed to present any evidence they wish**
 - But DON'T interview the whole team.
- **Parties:**
 - Parents present - or not
 - Counselor present if not a parent
- **Use one email string throughout.**
 - Save all communications
- **No Character Evidence**

Trauma Informed

- Find common ground
- Start broad
 - Tell me what happened
- Don't interrogate
 - Do ask the key questions
 - Did you consent?
- Empathize
- Stereotypes are True
- Offer supports
 - Counselling
 - Safe person at school
- Mandatory Reporting
 - Tell people what you have to do with information.





Off Limits Evidence

- Incidents not directly related to the possible violation, unless they evidence a pattern
- The character of the parties
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless offered to prove that someone other than the respondent committed the conduct alleged, 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.

Informal Resolutions

Allowed:

- Must agree in writing to try - both parties
- Any time after complaint, before final decision
- Withdraw from informal resolution process at any time
- Must agree to all terms

Not Allowed:

- Informally resolve complaint for staff person against student
- Informally resolve without formal complaint.



Investigation Report

- Neutral
- Allegations
- Check verifiable facts
- Procedural history
 - Complaint
 - Interviews
 - Evidence provided to parties
- Summary of all interviews
- Summary of documentary evidence
- Include comments from parties
- Provide to Decision Maker
 - 10 days to review





Decision Maker Assigned

- **Provide Notice**
- **No decisions for 10 days.**
- **All evidence, interviews, comments from parties.**
- **Decision Maker decides what it relevant.**



Questions?





Next Training:

Decision Makers - December 9, 2025

