

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #6

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MEETINGS THROUGH JUNE

- ▶ 9 am MT/8 am PT – 60 mins
 - ▶ March 11
 - ▶ April 8
 - ▶ **May 6**
 - ▶ **Note May date is on the 1st Tuesday**
 - ▶ June 10

UPDATES

- ▶ Update on 2024 Regs
- ▶ Recission of prior guidance

CASE SCENARIOS

WHAT'S COME UP FOR YOU?

SCENARIO

► **Background:**

Ms. Carter, a 5th-grade teacher at Lincoln Elementary School, notices that one of her students, Sophia (10 years old), has become unusually withdrawn in class. During recess, Sophia confides in Ms. Carter that a classmate, Jake (11 years old), has been making inappropriate comments about her body and has tried to touch her in ways that make her uncomfortable. She also mentions that Jake has shared inappropriate drawings with her and a few other students. Sophia is visibly upset and says she doesn't feel safe in class.

Ms. Carter is unsure of how to handle the situation. What should she do?

SCENARIO

► **Mandatory Reporting & Response:**

- What steps should Ms. Carter take immediately after hearing Sophia's concerns?
- Who else should be informed of the allegation, and what are the school's responsibilities in responding to the complaint?

SCENARIO

► Identification of Sexual Harassment:

- Does Jake's behavior meet the Title IX definition of sexual harassment?
- What types of conduct are covered under Title IX's definition of sexual harassment in K-6 settings?

SCENARIO

▶ **Grievance Process & Investigation:**

- What does the school need to do before it starts investigating?
- What steps must the school take to investigate the claim while ensuring due process for all involved?
- What supportive measures could be considered?

TITLE IX FORMAL GRIEVANCE PROCESS – MUST PROVIDE FOR “PROMOTE AND EQUITABLE RESOLUTIONS OF STUDENT AND EMPLOYEE COMPLAINTS”

TIX Coordinator

Report

- Voluntary
- Mandatory

Supportive Measures

- Referrals
- Safety plans
- No-Contact
- Class/schedule change
- School escort
- Parking mods
- Academic help
- Education
- Etc.

Formal Complaint

- Intent
- Allegations
- Signature*

- Not sexual harassment;
- Not in United States; or
- Not education program/activity

Dismissal*

- HR
- Supervisor
- Principal
- Counselor

Referral

Notice of Allegations

Investigation

- Interviews
- Evidence
- Preliminary Report
- Final Report

Decision Process

- Written Questions
- Decision
- Sanctions
- Outcome Letter

Appeal

- Paper only
- Uphold
- Change sanctions
- Remand

Sanctions & Remedies

- Only applied after appeal concluded
- May be disciplinary

Notice

Informal Resolution

FOLLOW UP

▶ Training & Prevention:

- How can teachers proactively educate students about appropriate behavior and respect to prevent similar incidents?
- What resources or training should the school provide to ensure all staff understand their role in enforcing Title IX policies?

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Actual knowledge** - Notice of sexual harassment or allegations there of to the TIX Coordinator OR to ANY employee of an elementary or secondary school
- ▶ **Formal Complaint** – A document filed by the complainant or signed by the TIXC alleging sexual harassment against a respondent requesting the school investigate
 - ▶ Complainant must be participating in or attempting to participate in an educational program or activity

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Sexual Harassment** – conduct on the basis of sex that is:
 - ▶ Quid pro quo by an employee (conditioning of a benefit, help, etc. on participation in sexual contact); OR
 - ▶ Unwelcome conduct that is so severe, pervasive and objectively offensive that it effectively denies access; OR
 - ▶ Sexual assault – forcible or nonforcible sex offense; OR

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Sexual Harassment** (con't)– conduct on the basis of sex that is:
 - ▶ Dating violence – violence committed within an intimate or romantic relationship; OR
 - ▶ Domestic violence - misdemeanor or felony crime; OR
 - ▶ Stalking – a course of conduct directed at a specific person that would cause a reasonable person fear for their safety or other's safety or to suffer substantial emotional distress.

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ When you have **actual knowledge** of **sexual harassment** in an **education program or activity** – must respond in a way that is not deliberately indifferent
- ▶ You must:
 1. Treat complainants and respondents equitably
 2. Follow a 106.45 compliant grievance process **BEFORE** implementing disciplinary measures or other actions that are not supportive measures

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

Students - Emergency removal can only be done for sexual harassment on an emergency basis that:

1. Uses an individualized safety and risk analysis,
2. Determines an immediate threat from the allegations of sexual harassment that justify removal, and
3. Provides an opportunity of notice and to challenge the decision immediately

Cannot otherwise remove without engaging in compliant grievance process!

Staff – A non-student employee respondent can be placed on administrative leave pending a compliant grievance process.

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ Title IX Coordinator should promptly contact the complainant to:
 - ▶ discuss the availability of supportive measures,
 - ▶ consider their wishes, and
 - ▶ explain the process for filing a formal complaint
- ▶ Document, document, document!

WHAT QUESTIONS OR CONCERNS HAVE ARISEN FOR YOU THIS MONTH?

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