



Idaho K-12 Title IX PLC #6

Appeals





Title IX Procedure in General

- Sexual Harassment reported
- Formal complaint
- Notice of allegations
- Investigation
- Informal Resolution Process
 - Agreement in Writing
 - ...or not
- Decision Making Process (hearing or not)
- Notice of Outcome/Final Decision/Determination of Responsibility
- Appeal





Roles in Title IX

- Complainant
- Respondent
- Parent/Guardian
- Advisor
- Investigator
- Informal Resolution Facilitator
- Decision Maker
- Title IX Coordinator
- Appeal Decision Maker



Who Can Be Appeal Decision Maker?

- Check your Policy: some may provide for panel.
- Can NOT be:
 - The Decision-Maker that issued the written determination of responsibility
 - the person who issued the dismissal
 - the Investigator
 - the Title IX Coordinator





Appeal Decision Maker Required Training

- Understand policy
 - definition of sexual harassment
 - scope of the school's education program or activities.
- Impartiality and Bias
 - Avoid prejudgment of facts
 - conflicts of interest
- Evidence and Relevance
- Procedural Knowledge
 - appeal procedures
 - bases for appeal, and
 - the role of the appellate officer.
- Technology: If applicable, training on the tech for a live hearing



Title IX - Federal Law

- 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.
- Enforced by the Office for Civil Rights (OCR)

Scope of Title IX

1. Programs or activities
 - a. Any property owned.
 - b. Any event organized.
 - c. “locations, events, or circumstances over which [the school/district] **exercised substantial control over both the respondent and the context in which the sexual harassment occurs . . .**”
 - d. Social Media?
 - i. Was it posted while at school?
 - ii. Shared at school?
2. Outside events:
 - a. Allowed to have a separate policy that applies to events that happen outside school programs and activities.



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.



Relevance and Inadmissible Evidence



- **Relevance:**
 - has any tendency to make a fact more or less probable than it would be without the evidence; and
 - the fact is of consequence in determining the action.

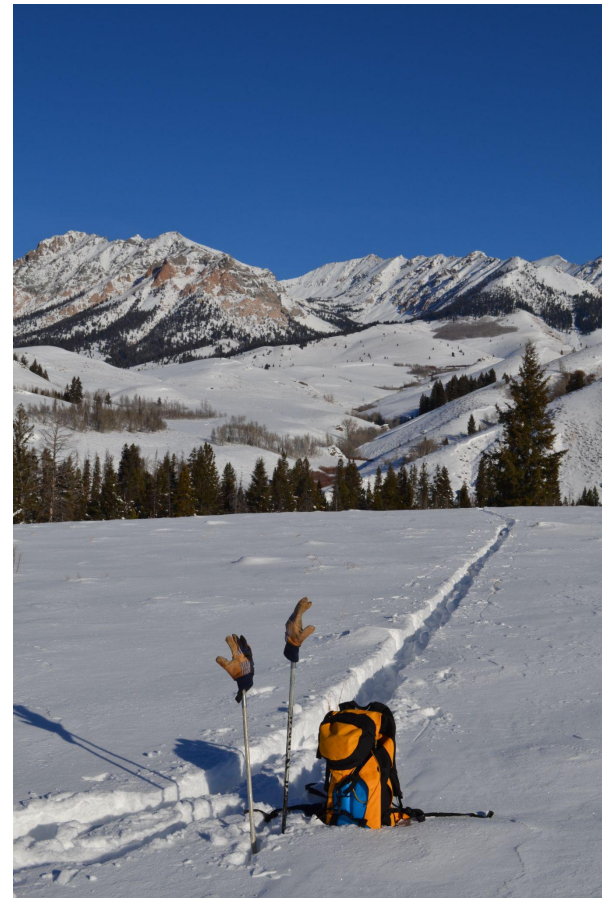
- **Inadmissible Evidence**
 - Incidents not directly related to the possible violation, unless they evidence a pattern
 - The character of the parties
 - Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless offered to prove that someone other than the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

When Does a Right to Appeal Arise?

Initial Complaint is Dismissed

- Allegations, if proven, do not meet the definition of sexual harassment
- conduct did not occur in a school program or activity
- conduct occurred outside the United States
- Complainant withdraws allegations
- Respondent withdraws from school or quits
- If specific circumstances prevent investigator from gathering sufficient evidence

Final Decision/Determination of Responsibility





Notice of Right to Appeal

- In writing
- Include in Notice of Dismissal
- Include in Final Decision/Determination of Responsibility
- Include deadlines
- Include grounds
- Include process

Notice of Appeal



- In writing
- Inform both parties that an appeal has been received.
- Assign Appellate Decision Maker
 - Use same language as prior assignment of decision maker, with right to challenge within three (?) days.
- Procedure
 - Ten (?) days following the notice of the appeal to submit a written statement in support of the appeal and challenging the outcome.
 - Ten days for Responding party to do the same.
 - Times can be changed by agreement, but both parties get the same amount of time.

Grounds for Appeal Are Limited

- **Procedural irregularity** that affected the outcome of the matter
- **New evidence that was not reasonably available** at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- **Conflict of interest or bias**
 - Coordinator, Investigator, Decision Maker
 - against complainants or respondents generally or the specific complainant or respondent
 - that affected the outcome of the matter.





Decision on Appeal

- In writing
- Result
 - identify the bases and rationale for the decision.
- Provide the written decision simultaneously to all parties.
- No further right to appeal

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Questions?



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Next Training:

OCR Investigations - April 14, 2026

