



F3 Law **20**
YEARS

ACSA

Title IX Compliance Foundations: Legal Framework, Roles, and Risk Management

September 8, 2026

M. Alejandra Leon

aleon@f3law.com

Brandon Lallande

blallande@f3law.com



Objectives

1. Sexual Harassment Definitions
2. Steps to Respond to an Initial Report
3. Conducting Initial Report Meetings
4. Developing Responsive Supportive Measures
5. Operationalizing Compliance with Title IX Grievance Process
6. Risk Mitigation



What is Title IX Sexual Harassment?

It Depends Which Law Applies

- Employment

- California Fair Employment & Housing Act (FEHA)
- Educ. Code 212.5
- Title VII
- Title IX

- Students

- Educ. Code 212.5
- Title IX

Title IX Sexual Harassment Requires Separate Procedures

- TIX Sexual Harassment Only → Title IX Sexual Harassment Complaint Procedures (AR 4119.12/4219.12/4319.12 (Personnel) & AR 5145.71 (Students))
- All other sexual harassment → AR 4119.11/4219.11/4319.11 (Personnel) & AR 5145.7 Sexual Harassment
- Non-sex based harassment → Other Board policies prohibiting such conduct (e.g., bullying, nondiscrimination)





California law has not changed.

California Law

- Discrimination in any education program or activity is prohibited in California on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic in the definition of hate crimes, including immigration status. (Educ. Code 220)
- California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity (Educ. Code 201(b).)

Terminology

- Apply to parties in both reports and Formal Complaints of sexual harassments

- **Title IX Complainant:**
A person who is alleged to be the victim of conduct that could constitute sexual harassment
 - Not a third party who reports Title IX Sexual Harassment perpetrated against someone else
 - Not a Title IX Coordinator, even if the Title IX Coordinator signs a Formal Complaint

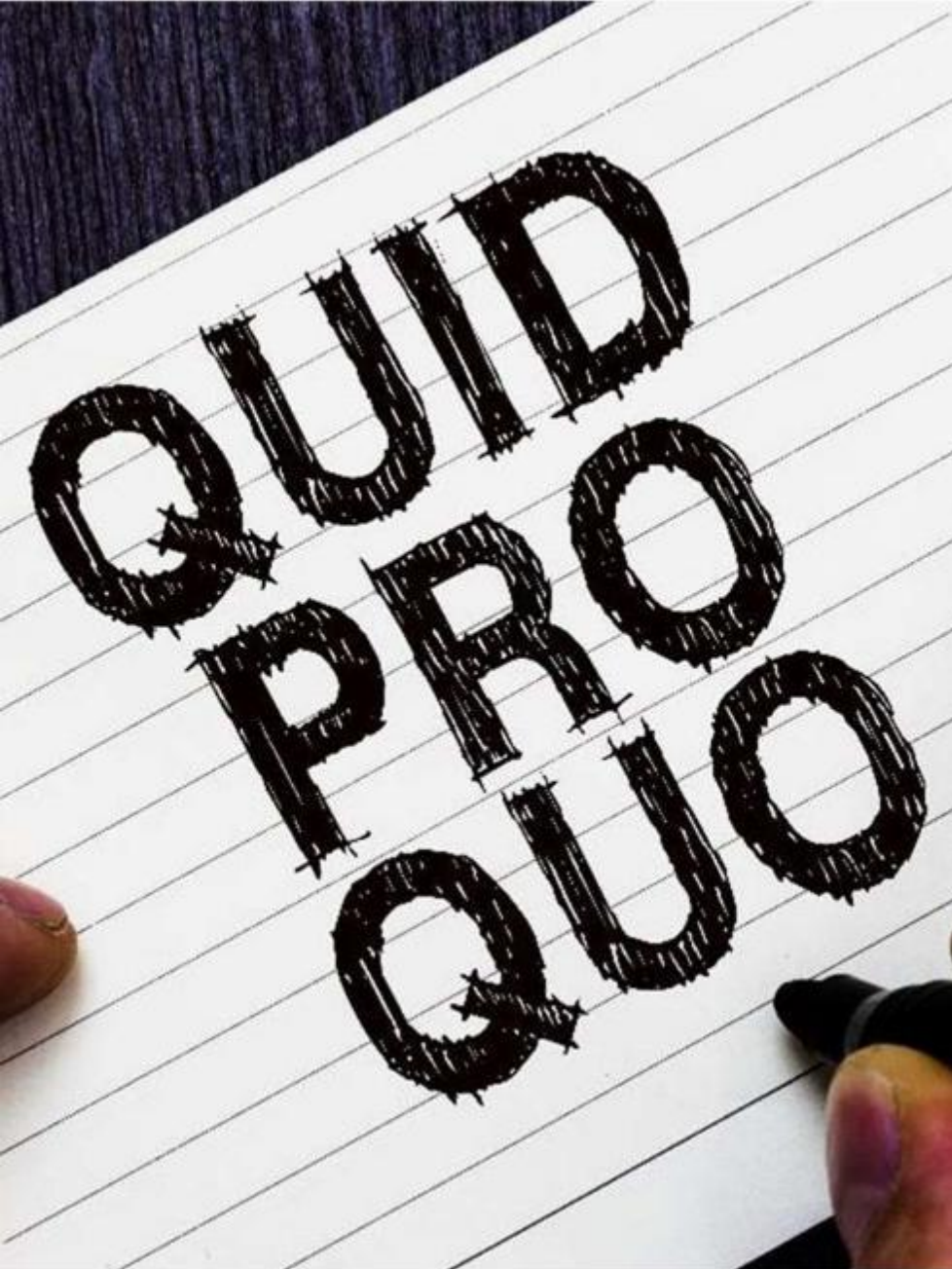
- **Title IX Respondent:**
A person who has been reported to be the perpetrator of conduct that could constitute sexual harassment

Title IX Statute

“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.” (20 U.S.C. §§ 1681–1688)

Title IX Sexual Harassment

- Employee quid pro quo
- Hostile environment
- Clery/VAWA “Big 4”



Title IX Quid Pro Quo

- **Definition:** An employee of the school conditioning an aid, service, or benefit of the school on an individual's participation in unwelcome sexual conduct
- Only an employee (not a volunteer, another student, etc.)
- Severity and harm presumed

VAWA “Big Four”

- Sexual Assault
 - 20 U.S.C. 1092(f)(6)(A)(v)
- Domestic Violence
 - 34U.S.C. 12291(a)(8)
- Dating Violence
 - 34 U.S.C. 12291(a)(10)
- Stalking
 - 34 U.S.C. 12291(a)(30)



Sexual Assault

- Forcible or nonforcible sex offense under the uniform crime reporting system of the FBI
 - Rape: carnal knowledge without consent
 - Sodomy: oral or anal intercourse without consent
 - Sexual assault with object: use of object to unlawfully penetrate, however slightly, genital or anal opening without consent
 - Fondling: touching of the private body parts of another person for the purpose of sexual gratification without consent
- Statutory rape
- Incest

Title IX Hostile Environment

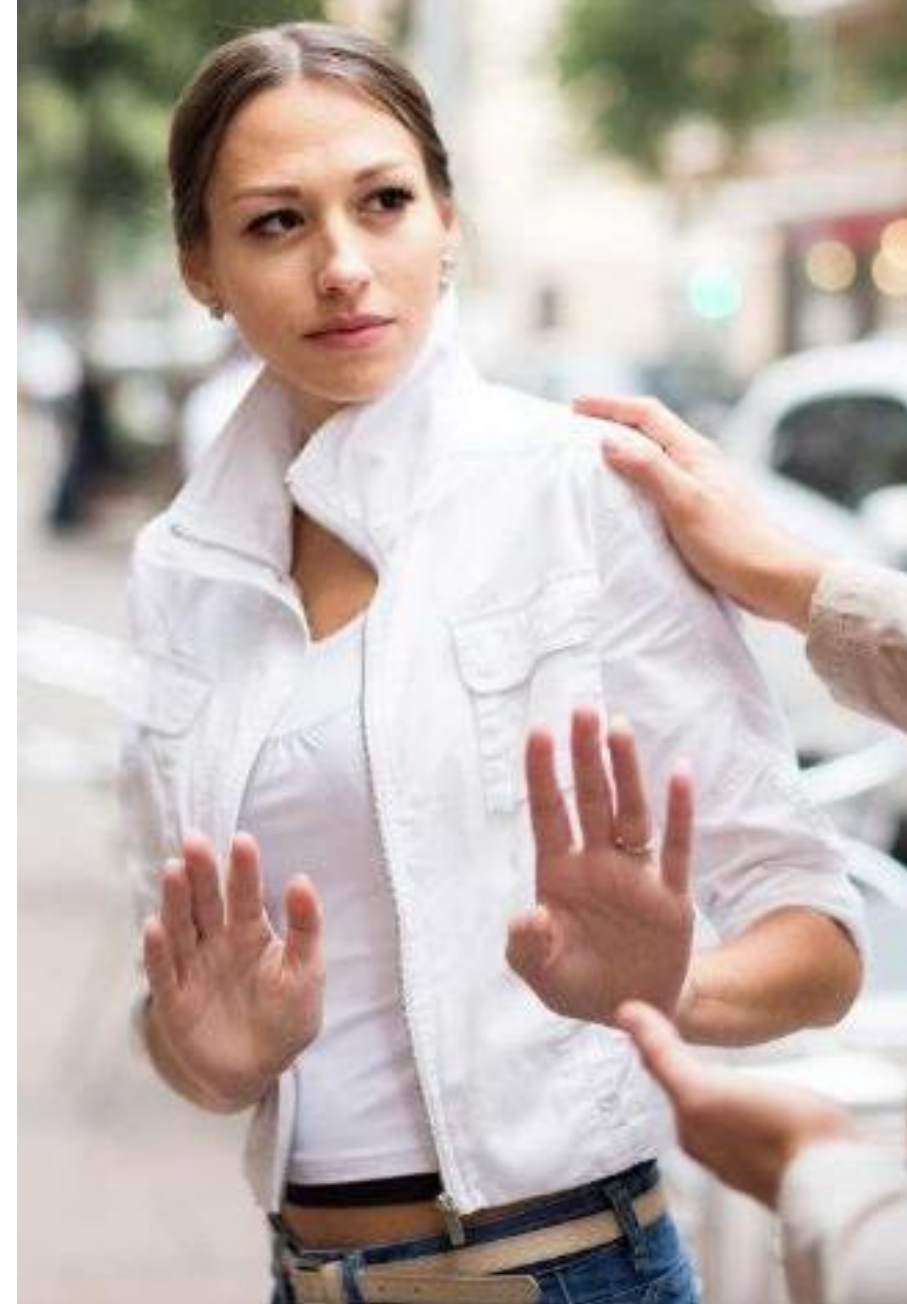


Title IX Hostile Environment

- Unwelcome conduct determined by a reasonable person to be **so severe, pervasive, and objectively offensive** that it effectively denies a person's equal access to the school's education program or activity

Unwelcome Conduct

- Consent ≠ Welcome
- Silence ≠ Welcome
- Not requested or invited
- Regarded as undesirable or offensive
- Failure to complain, resist, or object to conduct ≠ welcome
- Acquiescence to the conduct ≠ welcome





What is severe?

Severe

- Extremely serious
- Severely hostile or abusive
- More than juvenile behavior among students
- More than antagonistic, non-consensual, and crass
- Simple acts of teasing and name calling are not enough



What is pervasive?

Pervasive

- Systemic, widespread
- Occurring on multiple occasions
- Persistent
- Openly Practiced
- Pattern or practice of harassment
- Sustained and nontrivial



What is objectively offensive?

Objectively Offensive

- Objectively offensive to a reasonable person in complainant's position
- Constellation of surrounding circumstances, expectations, and relationships



ACCESS DENIED

Denial of Equal Access

- Hostile environment - harm is not presumed
 - Effectively denies a person EQUAL access to the school's education program or activity
 - “So undermines and detracts from the victims’ educational experience...”
 - Specific manifestation of trauma not required



19-year-old volunteer coach had a sexual relationship with an 18-year-old student on the team. When the relationship ended, the coach said, “I hope you realize you will be getting playing based on your actual performance now.”

Could this be sexual harassment under Title IX?

- A.No, because the relationship was consensual.
- B.Yes, quid pro quo.
- C.Yes, hostile environment.
- D.No, one comment is not severe or pervasive.



Practical Analysis

Is this so severe, pervasive, and objectively offensive?

Title IX Sexual Harassment Must Be “In a Program or Activity”



Program or Activity: Any location, event, or circumstance over which the school exhibits substantial control over both the respondent and the “context” in which the harassment occurred



Online and Off Campus

Substantial control
over the context and
Respondent?



Schools need
only address sex
discrimination
occurring
against a person
*in the United
States* under
Title IX





Break



Steps to Respond to an Initial Report

When does a school need to respond to Title sexual harassment?

A school with actual knowledge of [Title IX] sexual harassment in an education program or activity against a person in the United States must respond

What does “actual knowledge” mean?

An observation by a TK-12 employee of conduct that could constitute Title IX sexual harassment

A report or information about sexual harassment to the Title IX Coordinator or “official with authority”

In the TK-12 setting an official with authority is any employee

Who can report sexual harassment?

1. Anyone can report
2. By any means that results in the Title IX Coordinator or school employee receiving the report
3. Report may be made at any time

Practical Tips

1. Pause before issuing discipline if the conduct at issue is of a sexual nature
2. Contact the Title IX Coordinator and consult to determine jurisdiction and any applicable complaint procedure(s)
3. Ensure school staff are knowledgeable about examples of supportive measures and who the Title IX Coordinator is
4. Review and understand your school district's complaint processing system
5. If Complainant's parents are unaware of the report, encourage Complainant that they should notify parents and offer support when they report to parents
6. Invite parents and complainant to a meeting to discuss and review supportive measures and applicable complaint procedures



Conducting Initial Report Meetings

Initial Response

- Title IX Coordinator or designee must promptly, **even if no Formal Complaint is filed:**
 - Contact the Title IX Complainant to discuss the availability of “supportive measures”
 - Consider the Title IX Complainant’s wishes with respect to supportive measures
 - Inform the Title IX Complainant of the availability of supportive measures with or without the filing of a formal complaint
 - Explain the process for filing a Formal Complaint

Formal Complaint

- Defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment. 34 C.F.R. § 106.30(a).

Initial Meeting: Five Core Objectives

1

Discuss the availability of supportive measures

2

Consider the Complainant's wishes regarding supportive measures

3

Explain that supportive measures are available even without a Formal Complaint

4

Notify the Complainant that retaliation is prohibited

5

Explain the process for filing a Formal Complaint

Opening the Meeting

“Thank you for reporting this matter.”

Explain that the reported allegations, if true, could constitute Title IX Sexual Harassment under the District’s procedures.

Explain that Title IX requires the District to follow specific procedures.

Preview the meeting: supportive measures, the Complainant’s wishes, and the Formal Complaint process.

- If a supportive measure is already in place (e.g., a class change), acknowledge it.
- Provide a copy of the District’s applicable Title IX Sexual Harassment Complaint Procedures.

No Retaliation

Retaliation is prohibited.

No person may intimidate, threaten, coerce, or discriminate against an individual to interfere with rights secured by Title IX.

Retaliation is also prohibited because an individual made a report or complaint, testified, assisted, participated, or refused to participate in a Title IX investigation or proceeding.

If the Complainant experiences harassment or intimidation because of the report or participation in the process, explain how to report that conduct under District policy.

Supportive Measures

Non-punitive • Individualized • No charge

Available before or after a Formal Complaint is filed — and even when no Formal Complaint is filed.

Designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party.

Ask: “What do you need or think would be helpful for you?”

Supportive measures should remain available throughout the process and for as long as necessary.

Examples

- Counseling
- Additional time for schoolwork
- Academic/homework support
- Schedule or class changes
- Separation / appropriate no-contact measures

Questions About the Respondent

Protect confidential personnel/student information.

If asked about discipline, removal, or personnel action, do not disclose confidential information.

Where appropriate, share only what the Complainant needs to know for safety and access to the educational program.

- Example from the outline: “I cannot share any confidential personnel information, but I can share with you that Respondent will not be on site during this process.”

For a no-contact directive that would identify the Complainant to the Respondent, discuss disclosure implications with the Complainant.

Explain the Formal Complaint Process

A report is not automatically treated as a Formal Complaint under the procedures described in this training.

Explain how the Complainant can submit a signed Formal Complaint requesting an investigation.

- Under the outline, an email confirming the request to investigate is sufficient; the Complainant need not rewrite the allegations.

Explain that after a Formal Complaint is submitted, both parties receive a Notice of Allegations.

If written allegations have not already been provided, ask for enough detail to identify what occurred, including when and where.

Explain that the Complainant is not required to file a Formal Complaint.

What Happens Next?

The parties may be accompanied at meetings by an advisor of their choice, including an attorney.

- The advisor provides support and is not a direct participant in the meeting under the outline.

After the Notice of Allegations, the Title IX investigator will contact the Complainant to schedule an interview.

The process includes required opportunities for the parties to review and respond.

Set expectations about the District's anticipated timeline and any permitted extensions.

Remind the Complainant: supportive measures remain available throughout the process.

**“If you have questions or concerns about the process,
I am here to answer them.”**

Close the Meeting & Memorialize the Discussion

Ask: “What questions do you have?”

Confirm the supportive measures discussed, requested, accepted, or declined.

Remind the Complainant how to request additional supportive measures later.

Confirm the next step regarding a Formal Complaint.

Following the meeting, prepare a written notice memorializing the Supportive Measures Meeting.

- If the Complainant did not complete the Formal Complaint during the meeting, include the applicable complaint form with the follow-up notice.

Confidentiality

- Not required to maintain anonymity of Complainant after formal complaint is filed
- Both parties must be identified (if identity is known) in written notice of allegations
- Using party initials or withholding Complainant's identity is insufficient

Signing a Complaint

Factors to consider



Emergency Removals / Admin Leave

- Immediate emergency removal (34 C.F.R. 106.44(c))
- Conduct an individualized safety and risk analysis to determine if emergency removal is necessary to protect a student or other individual from **immediate threat** to **physical health or safety arising from the allegations of sexual harassment**
- Notice, opportunity to challenge provided “immediately” provided the removal
- Proceed with caution re IEPs/504 Plan, e.g., “change in placement” under IDEA
- Employee administrative leave
 - (34 C.F.R. 106.44(c))
 - Still permitted consistent with state law, board policy, handbooks and collective bargaining agreements

Dismissals

- **Mandatory if conduct alleged:**
 - Not sexual harassment, even if true
 - Did not occur in the school's program or activity
 - Did not occur in the United states
 - **can still address under non-Title IX policy
- **Permissive if:**
 - Complainant requests to withdraw in writing
 - Respondent's enrollment or employment ends
 - Specific circumstances prevent school from gathering evidence sufficient to reach a determination (e.g., passage of time, lack of cooperation by complainant)



Informal Resolution (Voluntary)

Informal Resolution

INFORMAL RESOLUTION IS NOT PERMITTED UNDER THE FOLLOWING CONDITIONS:	INFORMAL RESOLUTION MAY MOVE FORWARD UNDER THE FOLLOWING CONDITIONS:
<ul style="list-style-type: none">▪ Cannot condition enrollment, employment, or any right on waiver of right to investigation and adjudication of formal complaints under grievance procedure▪ Cannot require use of informal resolution process▪ Cannot offer informal resolution process until formal complaint is filed▪ Not available to resolve allegations that<ul style="list-style-type: none">▪ employee sexually harassed a student	<ul style="list-style-type: none">▪ Any time prior to reaching a determination, either party may request informal resolution▪ Requires voluntary, written consent from both parties▪ Any party has a right to withdraw prior to agreement

Informal Resolution Facilitators



Should we use Title IX Coordinator or investigator(s) or decisionmakers

Written Notice Required

- To both parties
- Allegations
- Requirements of informal resolution process (including circumstances under which the party cannot resume a formal complaint arising from the allegations)
- Resulting consequences of participating (e.g., records)





Developing Responsive Supportive Measures

Supportive Measures

- **Non-punitive**, individualized services, offered as appropriate and without charge to a complainant or a respondent before or after the filing of a formal complaint, or where no complaint has been filed. (34 CFR106.30(a).)
- Should be designed to restore or preserve equal access to the education program or activity without “unreasonably” burdening the other party



Examples of Supportive Measures

- Extensions
- Changes in class, work, extracurricular or other activity (regardless of whether there is a comparable alternative)
- Camoys escort / increased security and monitoring
- Excused absence
- Testing accommodations
- Parking accommodations
- Referral to and coordination of campus and/or community resources and support
- Training and education
- Contact Restrictions / No Contact Directives
- Counseling or specialized training or support groups

Individualized Supportive Measures

Tailor measures to the student's actual needs and circumstances.

Consider the nature of the reported conduct, schedules and locations, safety concerns, academic impact, and the student's expressed wishes.

A measure that helps one student may be unnecessary, or improper, for another.

Revisit supportive measures as needs or circumstances change.

Match the Measure to the Need

Anxious about seeing Respondent → adjust passing periods, routes, or supervision.

Does not want to change classes → consider other ways to minimize contact rather than automatically moving the Complainant.

Academic impact → extensions, tutoring, homework support, or modified deadlines.

Avoiding a location → develop an access/supervision plan rather than simply telling the student to avoid the area.

Wants to remain in athletics/activities → preserve participation while minimizing contact.

Initially declines counseling → remind the student that measures remain available later.



Operationalizing Compliance with Title IX Grievance Process

Schools Must



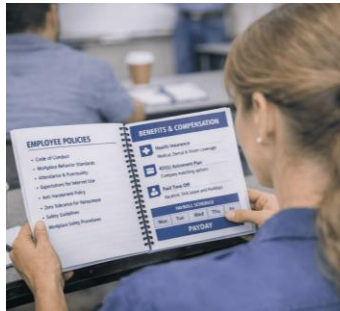
- Designate a Title IX Coordinator



- Train staff



- Adopt, Publish & Implement Nondiscrimination Policy and Grievance Procedures



- Publish training materials



- Notice of Nondiscrimination



- Recordkeeping

Parts of Title IX Sexual Harassment Process

- Initial Response / Supportive Measures

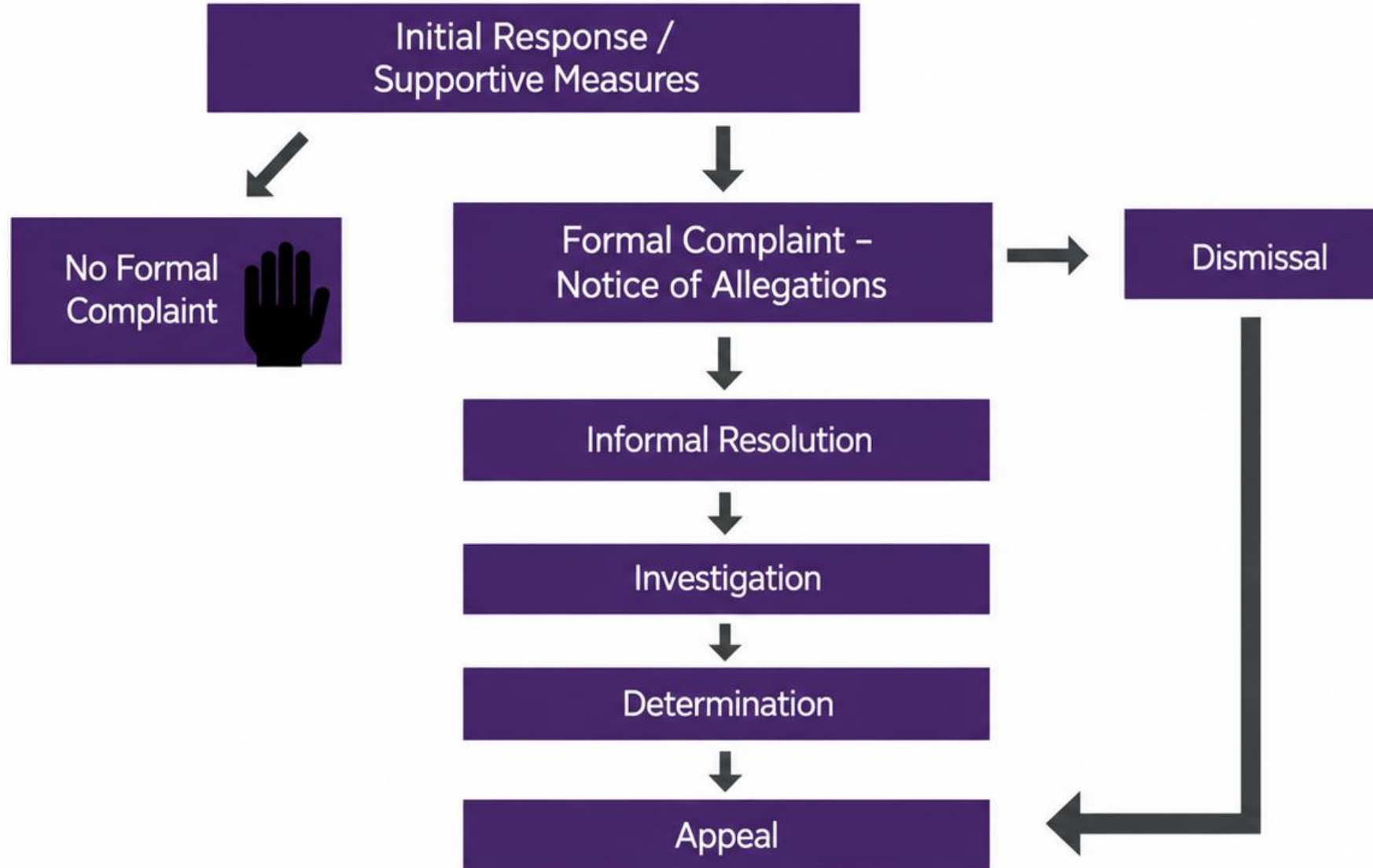
- Informal Resolution (Voluntary)

- Investigation

- Decision

- Appeal

TIX Sexual Harassment Allegations



The Question Districts Often Miss

A report comes in. It is not Title IX. Now what?

“Not Title IX” does not necessarily mean no policy violation, no investigation, or no obligation to respond.

The conduct may still implicate other complaint procedures, nondiscrimination rules, bullying policies, employee conduct standards, or other District processes.

The operational challenge is ensuring the matter gets to the right process and the right person.

Title IX may be the wrong lane. The District still has to determine where the report belongs.

The Funnel Problem

Teacher

Principal

HR

Athletics

Special Ed.

District Office

REPORTS ENTER THE DISTRICT THROUGH MANY DOORS

WHO SEES THE WHOLE PICTURE?

TITLE IX COORDINATOR / CENTRALIZED TRIAGE

Title IX

UCP /
Nondiscrimination

Sexual Harassment

Bullying

Employee / HR

Other

Risk arises when the report never reaches the person who knows which process applies.

Build the Handoff Into the Process

Do not make the reporter start over.

If Title IX does not apply, identify whether another District procedure does.

Determine who takes the matter next.

Make an affirmative internal referral rather than simply closing the Title IX inquiry.

Preserve the original report and information already collected.

Communicate what happens next, as appropriate.

Track the handoff through resolution.

INTAKE

TRIAGE

ROUTE

CONFIRM

TRACK

Excellent policies do not eliminate risk if nobody monitors the intersections between them.



Risk Mitigation

Common Compliance Gaps

- Title IX Coordinator information is outdated or difficult to locate.
- Required notices, policies, or training materials are not maintained or posted consistently.
- Training is incomplete, outdated, or poorly documented.
- Staff do not understand when or how to route reports.
- Supportive measures become a checklist rather than an individualized assessment.
- Records are decentralized or inconsistently maintained.
- Actual District practices do not match the written grievance procedure.

If OCR walked in tomorrow, could we demonstrate — not just say — that we are doing what our procedures require?

The Complaint-Processing Gap

A complaint is only useful if it gets somewhere.

- **EXAMPLES**

- Complaint remains with a principal.
- HR receives an employee complaint but does not consider Title IX.
- Athletics handles the issue internally.
- Student Services treats the matter exclusively as bullying.
- Different departments receive different pieces of the same allegation.
- Someone decides “this isn’t Title IX” before the Title IX Coordinator ever sees it.

REPORT

ROUTE

TIX COORDINATOR

Do not depend on every employee correctly identifying Title IX. Build the funnel.

Compliance and Title IX Cannot Operate in Silos

WHO ELSE NEEDS TO KNOW ABOUT THIS?

Title IX

UCP / Nondiscrimination

HR / Employee Misconduct

Student Discipline

Special Education / 504

Safety / Threat Assessment

Athletics

Other District Procedures

Risk mitigation requires communication across compliance functions, not parallel systems that never intersect.

Student/Employee Discipline Can Be a Title IX Intake Point

The discipline referral may also be the Title IX report.

A student is referred for discipline after allegedly:

- Grabbing another student's breast or other sexual touching
- Sending or distributing sexually explicit images
- Repeatedly making sexual comments
- Engaging in sexual conduct without consent
- Retaliating against a student who reported sexual misconduct

DISCIPLINE QUESTION
“Did the student violate the discipline code?”

TITLE IX QUESTION
“Does this allegation trigger our Title IX procedures?”

Different questions. Same facts.

The Jurisdictional Overlap

SAME INCIDENT

DISCIPLINE

- Education Code / discipline rules
- Board policy
- Collective Bargaining Agreements/Progressive Discipline
- Immediate safety considerations
- Potential disciplinary consequences

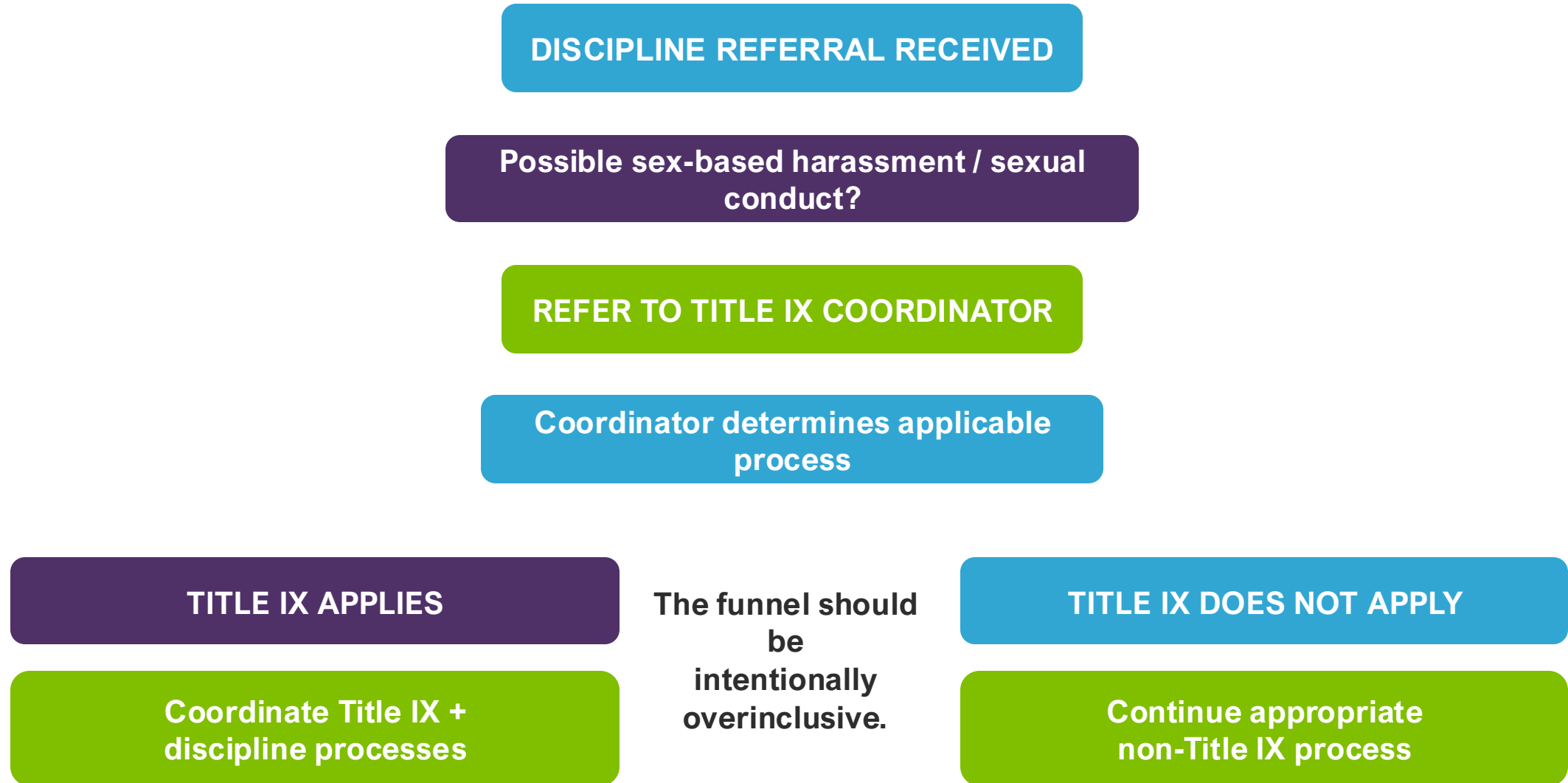
TITLE IX

- Title IX jurisdiction
- Supportive measures
- Emergency Removal/Administrative Leave
- Grievance procedure
- Procedural rights / determination

COORDINATION REQUIRED

Do not bypass Title IX intake simply because the conduct also violates a District code of conduct/professional standards

Build Title IX Into the Discipline Funnel



The Discipline Trap

“We know what happened. Can we just discipline the student?”

Report

Principal investigates

Concludes misconduct occurred

Discipline is issued

Title IX grievance procedure never completed, and discipline may be subject to challenge by Respondent

This is the operational failure that occurs when discipline and Title IX run independently.

Before Discipline: Check the Grievance Procedure

PROCESS MATTERS — EVEN WHEN THE CONDUCT SEEMS CLEAR

Before imposing discipline based on a determination that the respondent committed Title IX sexual harassment, confirm the applicable grievance procedure has been followed.

Ask before acting:

- Is this conduct within Title IX jurisdiction?
- Has the Title IX Coordinator been notified?
- Has the grievance process been initiated?
- Where are we in that process?
- What actions may appropriately be taken now?
- What actions depend upon completion of the grievance procedure?

Do not treat Title IX as an investigation running in the background while ordinary discipline proceeds as though Title IX does not exist.

Risk Mitigation Is Systems Design

TRAIN

Recognize what must be reported.

FUNNEL

Get potential Title IX matters to the Coordinator.

TRIAGE

Identify every potentially applicable process.

COORDINATE

Connect Title IX, HR, Student Services, Compliance, and sites.

PAUSE & CHECK

Before discipline or closure: Is another process required?

DOCUMENT

Record the referral, decision, handoff, and outcome.

The goal is not to turn every administrator into a Title IX expert. Build a system where the right issue reliably reaches the right expert before the District acts.



Thank you

For more information, please contact:

M. Alejandra Leon

aleon@f3law.com

Brandon Lallande

blallande@f3law.com

Information in this presentation, included but not limited to PowerPoint handouts and presenters' comments, is summary only and not legal advice. We advise you to consult with legal counsel to determine how this information may apply to your specific facts and circumstances.