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Press Your Luck: OSPA's Annual Title IX Training

Summer 2026

Jackie Gharapour Wernz | ECR Solutions PLLC | July 28, 2026

ABOUT ME

Jackie Gharapour Wernz

Founder, ECR Solutions | Education Civil Rights Attorney & Consultant



jackie@educationcivilrights.com
www.educationcivilrights.com

I have spent two decades helping schools, colleges, and universities navigate complex civil rights and constitutional issues, including Title IX, Title VI, Title VII, Section 504, the ADA, and the First Amendment. I bring a unique mix of experience as outside counsel, in-house civil rights administrator, and civil rights attorney at the U.S. Department of Education's Office for Civil Rights.



20+ years training, guiding, and regulating educational leaders nationwide



Civil rights attorney with the U.S. Department of Education's Office for Civil Rights, serving in the Obama and Trump administrations



Licensed to practice law in Illinois, Texas, and Idaho

Ground Rules

Welcome

- **A general training on federal principles**
Not legal advice—specific matters run through counsel
- **Best practices**
Not every practice discussed in this presentation reflects an industry standard or legal requirement; many are best practices
- **Interactive by design**
Keep a device handy and stay focused—we will have polls, brainstorm, and small-group work all day
- **Post your training**
The 2020 Title IX rules require posting your training for Title IX on your District's website.

Have fun

Civil rights response is a craft and today is about sharpening your skills.

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3

THE DAY AT A GLANCE

Agenda

- 1 8:30 – 10:00 a.m. **Round 1: Know the Board:** *The scope and purpose of Title IX, definitions, other Civil Rights areas*
- 2 10:30 a.m. – 12:00 p.m. **Round 2: First Reports, No Whammies:** *Responding to reports the right way, including supports, removals, different roles in a Title IX case, and properly routing matters*
- 3 1:00 p.m. – 3:00 p.m. **Round 3: Playing a Fair Game:** *Running a legally sound grievance process, including relevance and evidence gathering, credibility, impartiality, and informal resolutions*
- 4 3:30 – 5:00 p.m. **Round 3 Continued and Round 4: Big Money, Big Whammies:** *Avoiding the costliest mistakes, including retaliation, employee sexual misconduct, and lack of coordination between departments*

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4

Press Your Luck!



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5

PRESS YOUR LUCK!

Tickets → Drawing for Prizes

1

ANSWER QUESTIONS

Answer scenarios in Vevox under your own name — correct answers climb the live individual leaderboard. Earn **one ticket** for every **two points** in Vevox.

2

BIG BOARD

After each round, a few lucky names spin the Big Board. A hammy costs only that spin's tickets; the JACKPOT square pays 30 tickets.



WIN PRIZES

Drop your tickets in the bucket. At day's end we draw for six prizes — one per winner, so more tickets means better odds, and anyone can win.



Join the Vevox session

Go to **vevox.app**

Enter the session ID: **176-126-582**

Or scan the QR code



Leaderboard

Position	Participants	Score	Time
			

Total participants: #

Average Score: # / #

3



3 COPIES OF THE
2026 QUICK
FIX HANDBOOK

2



2 RECORDED
TIX TALKS
ALL EMPLOYEE TRAININGS
(APPROXIMATELY 20-30 MIN)
FOR USE IN THE 2026-2027 SCHOOL YEAR

1



TRAINING
1-HOUR BESPOKE VIRTUAL
FOR THE TITLE IX TEAM

GRAND PRIZE

Round One

Know the Board
8:30 a.m. - 10 a.m.



CIVIL RIGHTS BASICS

Title IX and Beyond – Federal Law

The laws

Title VI. Race, color, national origin—including shared ancestry (e.g., antisemitism).

Title VII. Employment discrimination based on race, color, religion, sex (including pregnancy, sexual orientation), and national origin

Title IX. Sex discrimination in education programs and activities.

Section 504 / ADA Title II. Disability—students and employees.

Age Act / ADEA. Age 40+, in programs and in employment.

What they prohibit

Different treatment. Intentionally treating someone worse because of a protected characteristic

Disparate Impact. Neutral policy, discriminatory effect without sufficient justification

Harassment. Unwelcome conduct based on protected status—the threshold depends on the law: “severe, pervasive, AND objectively offensive” under Title IX; “severe OR pervasive” under Title VII, Title VI, etc.

Retaliation. Adverse action against anyone because they report or participate in a process or exert their rights

0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

Which is NOT an example of different treatment based on sex?

A female student is discouraged from enrolling in the school's automotive technology program while boys with similar qualifications are encouraged.

0%

A female student is denied enrollment in a welding class because it is full, and the class is all male.

0%

A school allows boys to wear sleeveless shirts during PE but not girls.

0%

ALL of the above are examples of different treatment based on sex.

0%

0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

Which is NOT an example of different treatment based on sex?

A female student is discouraged from enrolling in the school's automotive technology program while boys with similar qualifications are encouraged.

0%

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0%

A school allows boys to wear sleeveless shirts during PE but not girls.

0%

ALL of the above are examples of different treatment based on sex.

0%

 0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

If a school finds evidence of different treatment, what must it do?

It must find a policy violation

0%

It must find a policy violation if there is not evidence of a valid reason for the treatment

0%

It must find a policy violation if it was intended to harm individuals based on sex

0%



 0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

If a school finds evidence of different treatment, what must it do?

It must find a policy violation

0%

It must find a policy violation if there is not evidence of a valid reason for the treatment



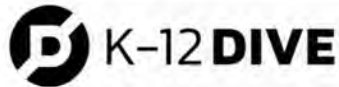
0%

It must find a policy violation if it was intended to harm individuals based on sex

0%

CIVIL RIGHTS BASICS

Disparate Impact



DIVE BRIEF

Education Department rescinds disparate impact regulations

Civil rights advocates say students of color will be harmed by the removal of the tool used to investigate racial discrimination.

Published July 24, 2026



EQUITY & DIVERSITY

Education Department Scraps Longstanding Discrimination Rules

The rules rescind 'disparate impact' as an avenue for civil rights enforcement.

By Mark Walsh & Stephen Sawchuk —
July 23, 2026 ⌚ 7 min read

CIVIL RIGHTS BASICS

What's Up With Disparate Impact?

- The Department of Education rescinded the portions of its Title VI regulations that prohibited practices based solely on their discriminatory effects
- OCR will no longer find a Title VI violation merely because a neutral policy disproportionately affects students of a particular race, color, or national origin
- OCR must instead establish intentional discrimination
- The change does not eliminate obligations under state law or other federal civil rights statutes
- **Oregon law still prohibits practices that are “fair in form but discriminatory in operation”**
- **As a result, Oregon schools should continue evaluating policies for disproportionate adverse effects, even if federal OCR no longer does so**

CIVIL RIGHTS BASICS

Disparate Impact Discrimination Examples

- A school requires every student interested in Career and Technical Education to complete a physically demanding aptitude test that disproportionately screens out female applicants, even though the physical tasks are not essential to the program
- A district awards prestigious student leadership positions based primarily on participation in activities that historically have been overwhelmingly male, resulting in female students being selected at significantly lower rates despite similar qualifications
- A district requires all parent-teacher conferences to be held between 6:00 and 8:00 p.m., resulting in significantly lower participation by fathers in school engagement opportunities

The Key: If a neutral policy has a statistically or otherwise significant disparate impact on one sex compared to the other, the evidence must demonstrate that it serves an important educational objective **and** that there is not a comparably effective alternative with less discriminatory impact for it to survive policy review

CIVIL RIGHTS BASICS

RETALIATION

- A school requires every student interested in Career and Technical Education to complete a physically demanding aptitude test that disproportionately screens out female applicants, even though the physical tasks are not essential to the program
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The Key: If a neutral policy has a statistically or otherwise significant disparate impact on one sex compared to the other, the evidence must demonstrate that it serves an important educational objective **and** that there is not a comparably effective alternative with less discriminatory impact for it to survive policy review

TITLE IX BASICS

What Is Prohibited By Title IX?



1972 civil rights law that prohibits sex discrimination in federally funded education programs.

“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.”

”



SEX DISCRIMINATION

34 CFR 106.31(b) Specific prohibitions. Recipients must not discriminate on the basis of sex in any aid, benefit, or service they provide.

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21

TITLE IX BASICS

Title IX History

1972



Title IX passed as part of the Education Amendments of 1972

1975



First Title IX regulations passed with limited requirements

1979



Athletics interpretation issued

1980s–1990s



Supreme Court cases extend Title IX to sexual harassment

2010–2016



Obama administration issues guidance expanding civil rights protections

2018



Trump administration rescinds much Obama guidance

2020



OCR announces intent to update Title IX regulations in 2018, resulting in new rules in 2020

2021–2024



Biden administration attempts to increase protections again, including for SOGI, and new Title IX rules go into effect

2025



Tennessee v. Cardona returns schools to 2020 regulations; February 4th DCL affirms return

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22

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Question slide

Which of the following is NOT covered by Title IX

Pregnancy		0%
Parenting		0%
Single-sex Programs		0%
Employment		0%
ALL of the above are covered by Title IX		0%



 0

Join at: vevox.app ID: 176-126-582

Preparing Results

Which of the following is NOT covered by Title IX

Pregnancy		0%
Parenting		0%
Single-sex Programs		0%
Employment		0%
ALL of the above are covered by Title IX	<input checked="" type="text"/>	0%

TITLE IX BASICS

Title IX Coverage

Athletics



Equal opportunities and comparable resources for boys and girls teams

Sexual Harassment



Sexual harassment that meets a specific standard must be addressed through a formal Title IX process

Pregnant and Parenting Students



Full access to programs with reasonable modifications, leave, and other support

Single-Sex Programs



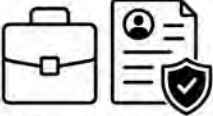
Programs or activities limited to one sex are allowed only in specific, narrow circumstances

Different Treatment



Schools cannot treat students differently because of sex in admissions, academics, discipline, housing, and other programs

Employment



All Title IX requirements apply to employment

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25



0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

What is the Supreme Court deciding about Title IX and employment in the upcoming term?

Whether Title IX only applies to students and never employees

0%

Whether employees must always use a school's grievance process before suing

0%

Whether employees can sue under Title IX for sex discrimination in employment

0%

Whether schools can use Title VII to address employment sex discrimination claims

0%

0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

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Whether employees must always use a school's grievance process before suing		0%
Whether employees can sue under Title IX for sex discrimination in employment	☒	0%
Whether schools can use Title VII to address employment sex discrimination claims		0%

TITLE IX BASICS

Title IX - *Crowther v. Board of Regents*

- The Supreme Court will decide whether employees of federally funded educational institutions may sue directly under Title IX for employment sex discrimination in *Crowther v. Board of Regents*, on appeal from the Eleventh Circuit
- The Ninth Circuit currently allows employees to bring Title IX employment claims
- Where an employee can bring Title IX claims instead of Title VII claims, school employers face longer filing periods, no EEOC exhaustion requirement, and no Title VII damages caps
- If the Court agrees with the Eleventh Circuit, Title VII may become the primary route for employee sex discrimination lawsuits

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28

TITLE IX BASICS

Title IX – Athletics

Schools must provide **EQUITABLE PARTICIPATION** opportunities for boys and girls based on:

1

ENROLLMENT

Proportional to the enrollment of boys and girls

2

PROGRAM EXPANSION

Expansion of athletic programs and activities

3

DEMONSTRATED STUDENT INTERESTS AND ABILITIES

Documented interest and abilities

Schools must also provide **EQUITABLE TREATMENT** of boys and girls programs with respect to a “laundry list” of benefits

Equipment and supplies

Scheduling of games and practice times

Travel and per diem allowances

Coaching

Locker rooms, practice and competitive facilities

Medical and training facilities and services

Publicity

Support services

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TITLE IX BASICS

Title IX - Athletics

- Title IX applies to the entire athletic program, including interscholastic, club, and intramural athletics
- Equal treatment does not require identical programs, but disparities in facilities, equipment, coaching, scheduling, travel, publicity, and other benefits must not result in an overall advantage for one sex
- Evaluate the program as a whole, while recognizing that a significant disparity in one area may still create a compliance concern
- Booster clubs, donations, and outside funding do not excuse inequities when the benefits are provided through the school's athletic program
- Current federal enforcement places particular emphasis on protecting female teams, facilities, and athletic opportunities based on sex, although schools must also consider applicable state law and controlling court decisions

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30

0/0

Join at: **vevox.app**

ID: **176-126-582**

Question slide

The Supreme Court recently ruled on state laws restricting participation on girls' and women's athletic teams. What did the Court hold?

Title IX requires schools to determine eligibility based on biological sex

0%

Title IX allows schools to determine eligibility based on biological sex

0%

Schools must evaluate each transgender athlete individually to determine whether the student has a competitive advantage

0%

Title IX prohibits states from excluding transgender girls who have received puberty blockers or hormone treatment

0%



0/0

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Preparing Results

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TITLE IX BASICS

West Virginia v. B.P.J. (June 30, 2026)

- *West Virginia v. B.P.J. (K-12, W. Virginia)* and *Little v. Hecox* (PSE, Idaho)
- States may reserve girls' and women's teams for students based on biological sex
- Such policies do not violate Title IX (unanimous) or the Equal Protection Clause (6–3)
- Schools are not required to conduct an individualized assessment of each athlete's physiology, treatment, or competitive advantage
- The ruling applies to athletics and does not directly decide questions involving pronouns, names, dress codes, harassment, restrooms, or other school programs

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33

TITLE IX BASICS

B.P.J. in Oregon

- The decision protects restrictive state laws from certain federal challenges, it did not override any state law
- Oregon's rules have not changed; Oregon law continues to prohibit discrimination based on gender identity
- Current ODE guidance and OSAA policy permit students to participate consistent with their asserted gender identity
- Refer individual eligibility questions to district counsel and OSAA
- Continue protecting all students from harassment, retaliation, disclosure of private information, and hostile treatment

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34

TITLE IX BASICS

SINGLE SEX PROGRAMS

SINGLE-SEX PROGRAMS

- Title IX generally prohibits separating students by sex, including in classes, extracurricular activities, and other learning opportunities
- A single-sex program is permitted only if
 - Specifically authorized by regulation, such as certain PE activities, human sexuality instruction, or choruses
 - Or justified by an important educational objective, entirely voluntary, paired with a substantially equal coeducational option, and reviewed at least every two years

Important Limits

- CTE programs cannot be offered on a single-sex basis
- Athletics are governed by separate rules
- Significant assistance to a single-sex outside program is generally prohibited unless the organization qualifies as a VYSO and excluded students receive a substantially equal coeducational opportunity

TITLE IX BASICS

PREGNANCY & PARENTING

- Do not exclude or discriminate against a student because of pregnancy, childbirth, termination of pregnancy, recovery, or parental status
- Allow a student with pregnancy or a related condition to continue participating in classes, athletics, extracurricular activities, and other school programs unless there is a legitimate safety risk
- Excuse absences for a student with pregnancy or a related condition as long as medically necessary and restore the student to the same academic and extracurricular status upon return
- Provide the same adjustments and services offered to students with other temporary medical conditions to a student with pregnancy or a related condition; use an “interactive process” framework
- Require medical certification for a student with pregnancy or a related condition only when it is required of students with other medical conditions
- Any separate program for pregnant students must be voluntary and comparable to the school’s regular program

TITLE IX REQUIREMENTS**Title IX's To Do List for Schools**

- Designate and authorize Title IX Coordinator (34 C.F.R. § 106.8(a))
- Notify applicants for admission and employment, students, parents or legal guardians, employees, and relevant unions or professional organizations of the Title IX Coordinator's name or title, office address, email address, and telephone number (34 C.F.R. § 106.8(a))
- Notify those groups that the school does not discriminate on the basis of sex, is required by Title IX not to discriminate, and that the prohibition extends to admission and employment, where applicable (34 C.F.R. § 106.8(b)(1))
- State that questions about Title IX may be referred to the Title IX Coordinator, OCR's Assistant Secretary, or both (34 C.F.R. § 106.8(b)(1))
- Prominently display the Title IX Coordinator's contact information and the notice of nondiscrimination on the school's website and in every handbook or catalog provided to the identified groups (34 C.F.R. § 106.8(b)(2)(i))

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37

TITLE IX REQUIREMENTS**Title IX's To Do List for Schools**

- Do not use or distribute publications stating that the school treats applicants, students, or employees differently based on sex, except where Title IX permits the different treatment (34 C.F.R. § 106.8(b)(2)(ii))
- Adopt and publish grievance procedures for complaints of sex discrimination, including a grievance process complying with § 106.45 for formal complaints of Title IX sexual harassment, and provide notice of those procedures to the identified groups (34 C.F.R. § 106.8(c))
- Respond appropriately to reports and follow the required grievance process when a formal complaint of Title IX sexual harassment is filed (34 C.F.R. §§ 106.44–106.45)
- Train Title IX Coordinators, investigators, decision-makers, and informal-resolution facilitators (34 C.F.R. § 106.45(b)(1)(iii))
- Maintain required Title IX records and training materials for seven years (34 C.F.R. § 106.45(b)(10))

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38

TITLE IX REQUIREMENTS

Civil Rights Coordinators

The Designation

Every district and public charter school in Oregon must designate one or more coordinators, including a Title IX Coordinator

Coordinators may wear other hats, but must have the knowledge, independence, and authority to do the job

Post it: **each coordinator's name, title, address, email, and phone belongs in the nondiscrimination notice, linked from the district website (OAR 581-021-0045(4))**

District policy must **track every discrimination report and the response**—and document that coordinator training is complete. An ESD may provide coordinators by contract

The Training (OAR 581-021-0660)

Upon initial designation, and annually thereafter—the requirement this very session is built to satisfy

Required topics: what discrimination means under ORS 659.850, Title VI, Title IX, and 504/ADA; the district's duties; and the coordinator roles those laws require

Plus: identifying and responding to reports, running conflict-free investigations, preventing discrimination, and spotting, stopping, and preventing retaliation

ODE provides training annually, or use **any other training** that fulfills the rule—keep records of completion

TITLE IX REQUIREMENTS

Coordinator Responsibilities

- Coordinate the school's overall Title IX compliance
- Receive and assess reports of sex discrimination
- Coordinate supportive measures
- Determine the appropriate response and process
- Oversee investigations, resolutions, and appeals
- Address retaliation concerns
- Maintain records and monitor trends
- Coordinate training, notices, and required postings

The Coordinator can and likely should delegate responsibilities

0/0

Join at: **vevox.app**

ID: **176-126-582**

Question slide

The Title IX rules require the following to be in a board's policy...

A statement that as required by Title IX, it does not discriminate based on sex and prohibits such discrimination in its education programs/activities, including in employment		0%
Grievance procedures that comply with the requirements of the Title IX rules		0%
A statement that inquiries about Title IX and the policy can be directed to the Title IX Coordinator or OCR		0%
The name or title, office address, email address, and telephone number of the Title IX Coordinator		0%
All of the above		0%
None of the above		0%

0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

The Title IX rules require the following to be in a board's policy...

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The name or title, office address, email address, and telephone number of the Title IX Coordinator		0%
All of the above		0%
None of the above	<input checked="" type="text"/>	0%

TITLE IX REQUIREMENTS

Notice of Nondiscrimination

Title IX (34 CFR 106.8)

- State that the institution does not discriminate on the basis of sex and is required by Title IX not to, including in admission and employment
- State that inquiries may be referred to the Title IX Coordinator, OCR's Assistant Secretary, or both
- Include the Title IX Coordinator's name or title, office address, email, and phone number
- Provide the notice to applicants (admission and employment), students, parents/guardians of K-12 students, employees, and unions/professional organizations with agreements with the institution
- Post it prominently on the website and in each handbook or catalog
- Separately notify the same groups of the grievance procedures and process (how to report, how to file a formal complaint, how the school will respond)

Oregon Law (OAR 581-021-0045(4))

- Cover Oregon's broader protected classes
- Include contact info for the Civil Rights Coordinator (and Section 504 and ADA Title II coordinators)
- Post on the district or charter school website as a direct link on the homepage or in the footer of every page
- Include a link to (or web address for) the district's discrimination complaint process and procedures
- Post in public-facing documents: handbooks, annual publications, board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school-related applications
- Make available in the languages of the communities the district serves
- Disseminate annually to staff, students, and families as an individual notice, accessible and in plain language

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43

TITLE IX REQUIREMENTS

Scavenger Hunt!

Visit your school or district website and verify the following:

- Is there a direct link to your Title IX nondiscrimination notice (usually in policy) from the homepage or fixed footer on every page?
- Can you find a direct link to the Notice of Nondiscrimination from the homepage or the fixed footer on every page?
- Does the Notice of Nondiscrimination identify your Title IX Coordinator (or Civil Rights Coordinator) and include the required contact information?
- Can you easily locate your Title IX policy?
- Can you easily locate your Title IX grievance procedures for complaints of sex discrimination and Title IX sexual harassment?
- Can a student, parent, or employee determine how to report sex discrimination within one or two clicks?

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44

OREGON LAW

The Oregon Title IX Overlay

The state rules of the road

ORS 659.850. No discrimination in any public school program or service—the duty attaches on notice, no formal complaint required.

ORS 659.852. No retaliation against anyone who reports, or is about to report, discrimination

OAR 581-021-0045 / -0046. Discrimination prohibited in programs, activities, and services; districts must evaluate their own compliance.

OAR 581-022-2370. Every district must adopt and publicize a civil rights complaint procedure.

ORS 339.351-364. Harassment, intimidation, bullying, and cyberbullying policies—every protected class.

Where Oregon goes further

More protected classes. Race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability—and ODE also lists citizenship and immigration status.

The CROWN Act. “Race” includes hair texture and protective hairstyles (braids, locs, twists, headwraps).

Lower thresholds. Severe, pervasive, and objectively offensive not required

Symbols & materials. Native American mascots prohibited (OAR 581-021-0047); the Freedom to Read Act (2025) bars discriminatory removal of library and curriculum materials.

OREGON LAW

Every Student Belongs & Bias Incidents

The ESB Rule (OAR 581-022-2312)

District policy must prohibit hate symbols—the noose, the Confederate flag, and neo-Nazi symbols—in programs and school-sponsored activities, with narrow curricular exceptions

Districts must have procedures for responding to bias incidents, centered on support for affected students and staff

ESB concerns run through the district complaint process and are appealable to ODE

Where It Meets Title IX

A bias incident can also be sexual or protected-class harassment—evaluate under every applicable policy, not just the loudest one

Oregon’s HIB law (ORS 339.351-364) separately requires harassment, intimidation, bullying, and cyberbullying policies with reporting and response procedures

Document the response even when no policy is violated—supportive and educational measures are still the district’s answer to bias

Leaderboard			
Position	Participants	Score	Time
			
Total participants: 0		Average Score: - / 6	

THE BIG BOARD

5 tickets	5 tickets	WHAMMY	10 tickets	10 tickets
15 tickets	WHAMMY	5 tickets	JACKPOT +30	5 tickets
10 tickets	20 tickets	10 tickets	WHAMMY	5 tickets
JACKPOT +30	5 tickets	15 tickets	10 tickets	WHAMMY

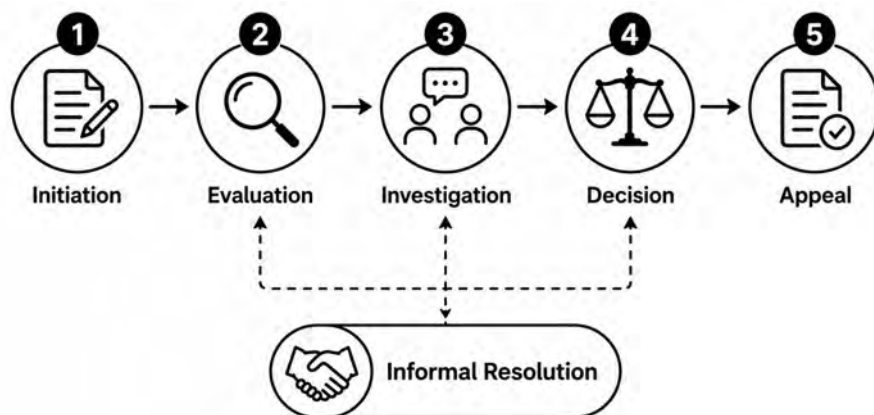
Round Two

First Reports, No Whammies
10:30 a.m. – 12 p.m.



THE GRIEVANCE PROCESS GAME BOARD

The Title IX Grievance Process



 ###/###

Join at: **vevox.app**

ID: **176-126-582**

Question slide

Where are the most mistakes made in civil rights cases?

Evaluation		0%
Investigation		0%
Decision		0%
Appeal		0%



 0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

Where are the most mistakes made in civil rights cases?

Evaluation	☒	0%
Investigation		0%
Decision		0%
Appeal		0%

THE GRIEVANCE PROCESS GAME BOARD

A Note on Timing

- The Title IX and Oregon rules do not require any particular timeframe for completing the grievance process, but require reasonably prompt time frames to be in the grievance procedure
- Oregon law limits grievance procedures to four steps. It also allows the Oregon Department of Education (ODE) to accept appeals if a complaint is not resolved within the required timelines: no more than 30 days at any individual step and no more than 90 days for the entire grievance process
- In practice, it is not uncommon for Title IX investigations to take 60-90+ days and for the entire process to take up to 120-180+ days
- Have realistic timelines in procedures, communicate clearly with parties about the details of the process throughout, and provide frequent updates and extensions in writing with good cause for extensions, if any

INITIATION

What Triggers the Duty to Act

Mandatory Reports

All employees are mandatory reporters—and in K-12, the district has “actual knowledge” under Title IX the moment ANY employee has notice of possible Title IX sexual harassment

This includes **teachers, aides, coaches, bus drivers, custodians, administrators, and every other district employee**

Unlike higher ed, **K-12 has no “confidential employee” exception**—even school counselors’ knowledge is the district’s knowledge

Direct Notice

Direct reports to the principal, HR, or the Title IX Coordinator (by a complainant, respondent, or any third party), including online, email, and voicemail reports and complaints

Indirect reports, including SafeOregon tips, anonymous reports, and notices from law enforcement or DHS

Personal observation, including seeing, hearing, reading (e.g., social media, electronic messages), or otherwise observing or perceiving the conduct

Climate surveys, exit interviews, and clusters of informal complaints that show a **pattern of data** suggesting a problem with one or more respondents or programs

INITIATION**“Actual Knowledge” in K-12: Any Employee Counts**

- **In K-12, notice to ANY employee is actual knowledge to the District**
The “Official with Authority” filter is a higher-ed concept only.
- **Internal reporting requirements make this workable**
District policy and Oregon law require every employee to promptly forward what they know to the Title IX Coordinator, so the Coordinator should have notice in every case.
- **The trap: the employee who stays silent**
What any employee knows, the district knows—a teacher who “keeps it quiet” has still put the district on notice and on the clock



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24

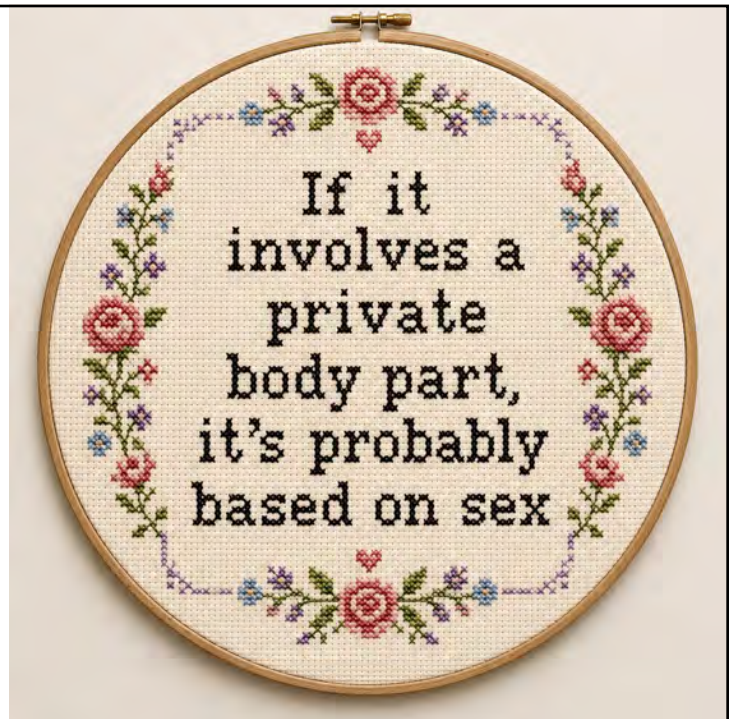
INITIATION**Actual Knowledge of What? Conduct “Based on Sex”**

Ask yourself:

- Did the conduct refer to sex, sexual activity, pregnancy, or private body parts?
- Was a person of one sex treated differently from another?
- Does the conduct reflect stereotypes about how boys or girls should look or behave?
- Is sexual conduct directed at someone, even without sexual interest or hostility?
- Is the conduct connected to the person’s actual or perceived sexual orientation or gender identity?
- Is comparable conduct tolerated when directed at one sex but not another?

If changing the person’s sex would likely change the conduct or lead it not to occur, it’s probably based on sex

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0/0

Join at: **vevox.app**

ID: **176-126-582**

Question slide

Which of the following is NOT likely based on sex?

A teacher expresses their viewpoint online that children cannot be transgender		0%
Older students haze a younger student by poking the younger student in the anus over the clothes		0%
Basketball players slap each other on the butt during sports practice		0%
ALL of the above are likely based on sex		0%
None of the above are likely based on sex		0%

0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

Which of the following is NOT likely based on sex?

A teacher expresses their viewpoint online that children cannot be transgender		0%
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Basketball players slap each other on the butt during sports practice		0%
ALL of the above are likely based on sex	<input checked="" type="text"/>	0%
None of the above are likely based on sex		0%

EVALUATION

Title IX Sexual Harassment

The “Big Five”

Sexual Assault (includes rape and criminal sexual contact (formerly “fondling”)—both rely on “consent” constructs)

Domestic Violence

Dating Violence

Stalking (a “course of conduct” aimed at a specific person that would lead a reasonable person to fear for their safety or safety of others or suffer substantial emotional distress)

Employee Quid Pro Quo (an employee of the district conditioning an aid, benefit, or service of the district on participation in unwelcome sexual activity)

For all but stalking, one incident is enough!

Hostile Environment Sexual Harassment

Unwelcome Conduct (complainant did not solicit or invite, finds objectionable or offensive)

Based on Sex (federal standard currently ambiguous as to sexual orientation and gender identity)

So Severe

So Pervasive

So Objectively Offensive

Effectively Denies Equal Access

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59

EVALUATION

Title IX Education Program or Activity

- “[I]ncludes locations, events, or circumstances over which the [district] exercised substantial control over both the respondent and the context in which the sexual harassment occurs”
- In K-12, this reaches classrooms, buses, field trips, athletic travel, and school-sponsored events—wherever the district controls the respondent and the context
- “Operations” can include computer and internet networks, digital platforms, and computer hardware or software owned or operated by or used in the operations of the district
- If the district funded, promoted, or sponsored the event or circumstance, it may be part of the education program or activity even if off school grounds and not directly connected to the district
- Conduct that begins outside of an education program or activity may continue into the education program or activity (“downstream effects”)
- Conduct must also be against a person in the United States to be Title IX sexual harassment

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60

EVALUATION

Remember Oregon Law Standards

- No requirement that harassment be severe, pervasive, and objectively offensive
- No separate federal jurisdiction test; off-campus conduct may be covered when it creates a hostile environment at school
- Applies to conduct that interferes with access or creates an intimidating, offensive, or hostile environment
- Covers students, employees, and certain other people participating in school activities
- All complaints alleging conduct that may violate the policy must be investigated

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61

 0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

What is a complaint?

Notice of a civil rights concern		0%
Notice of a civil rights concern in writing		0%
Notice of a civil rights concern and a request that the district help resolve it		0%
Notice of a civil rights concern and a request that the district investigate it		0%



 0

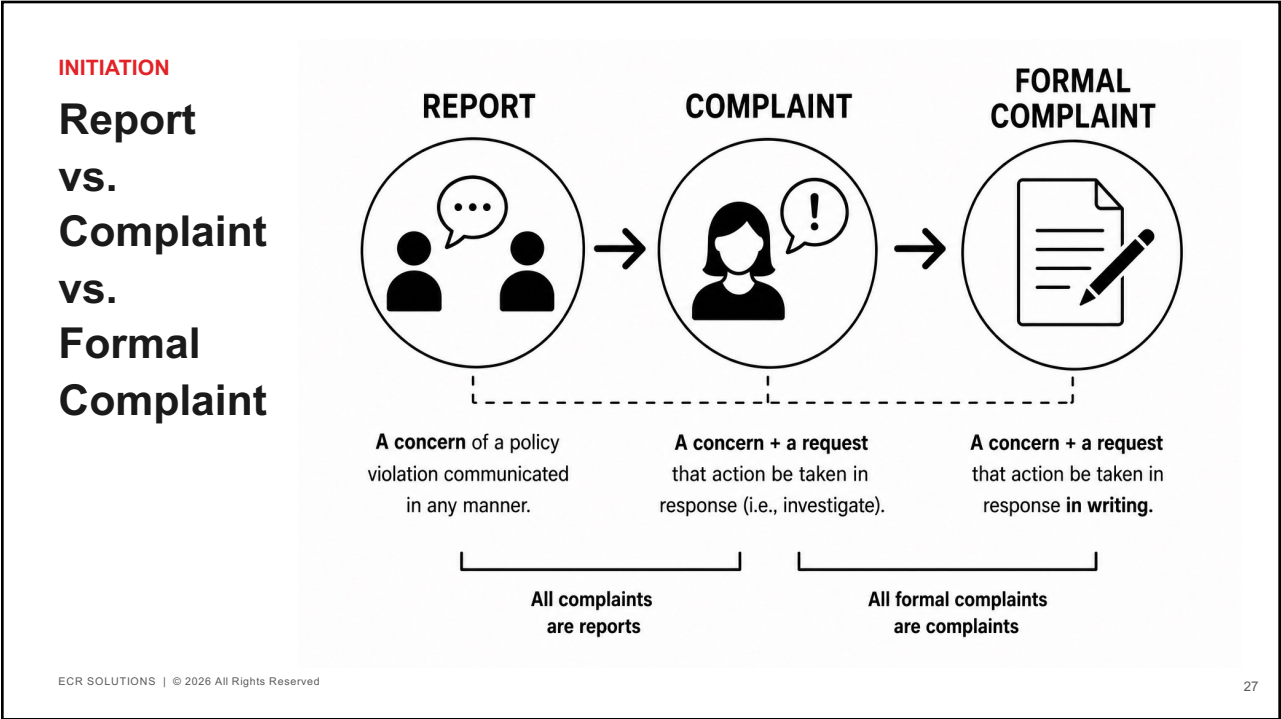
Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

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0/0

Join at: **vevox.app**

ID: **176-126-582**

Question slide

A news article reports that female students claim male students are sharing AI fake “nudes” of female students; the school has no other information of such conduct. The news article is:

A report of conduct that could be T9SH		0%
A complaint of conduct that could be T9SH		0%
A formal complaint of conduct that could be T9SH		0%
None of the above; it was made to the newspaper (not a school employee) and does not state where the conduct occurred		0%

0/0

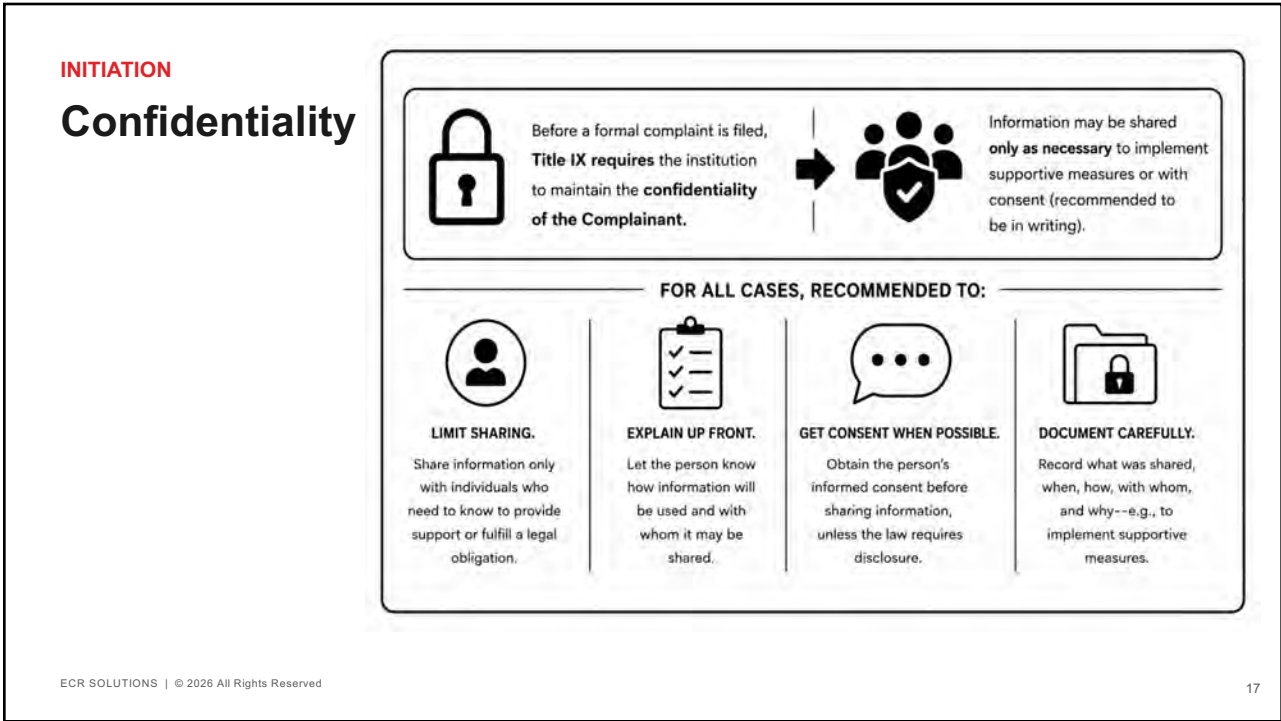
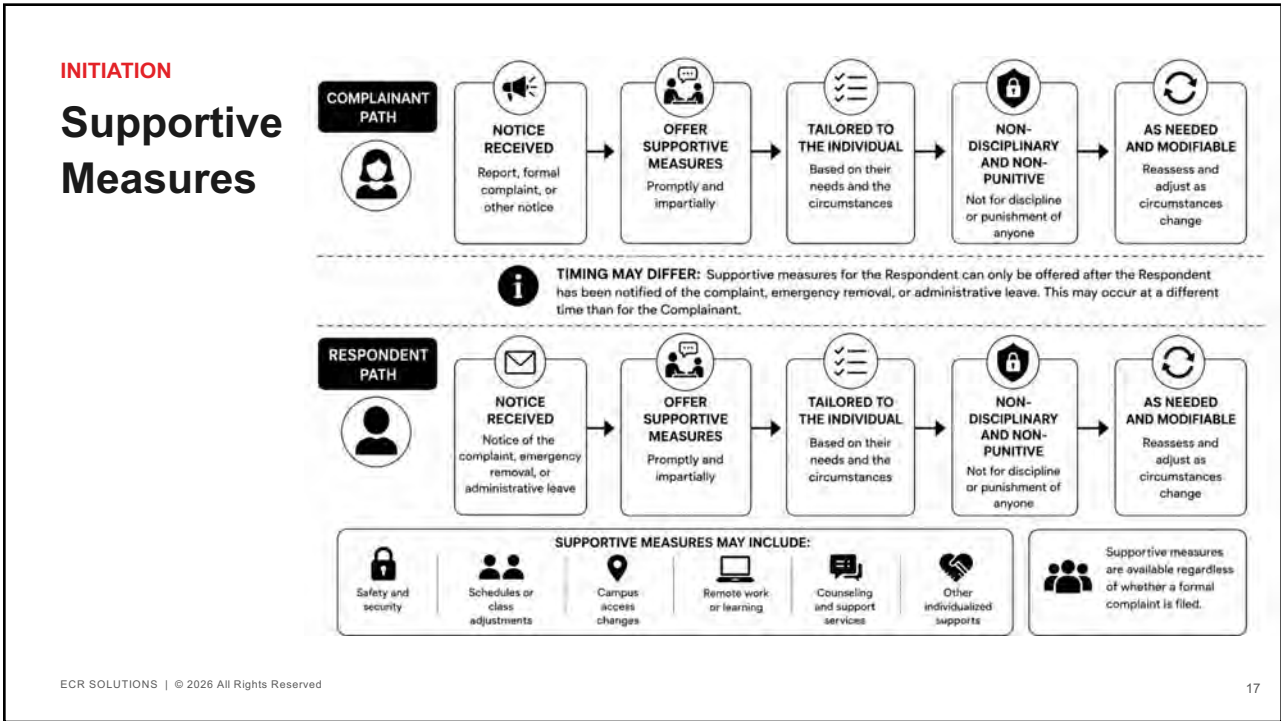
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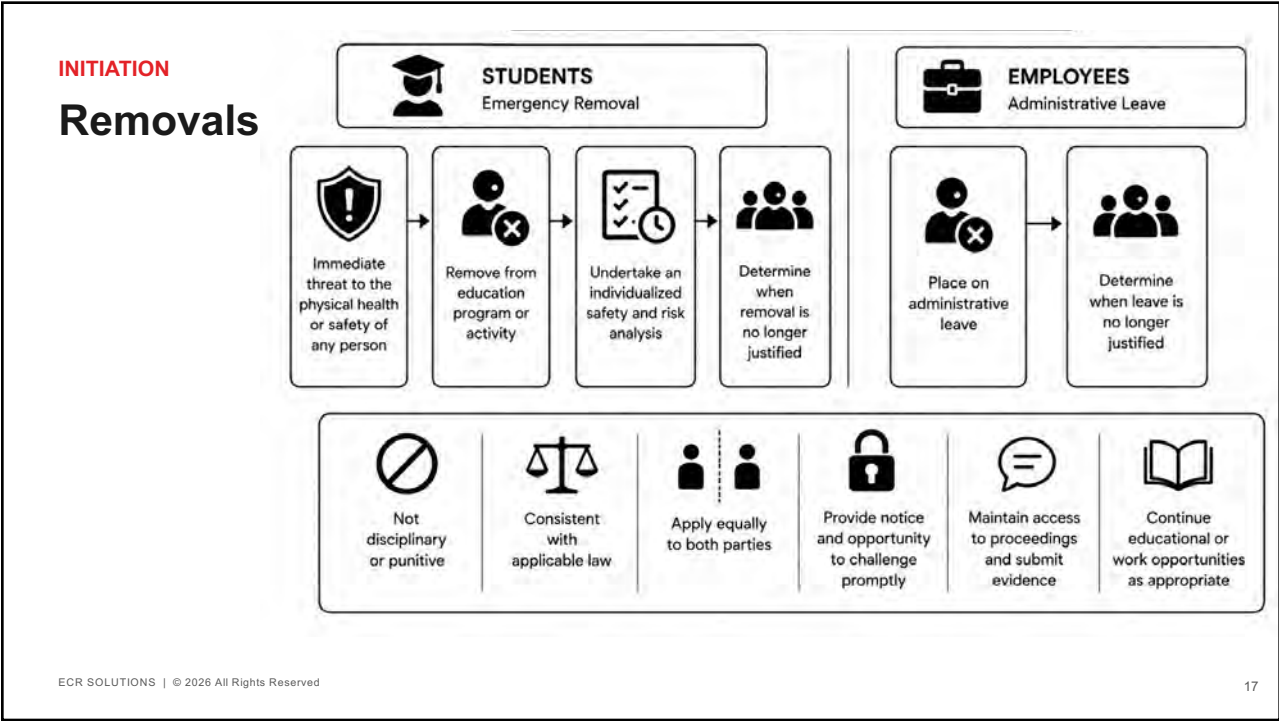
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INITIATION

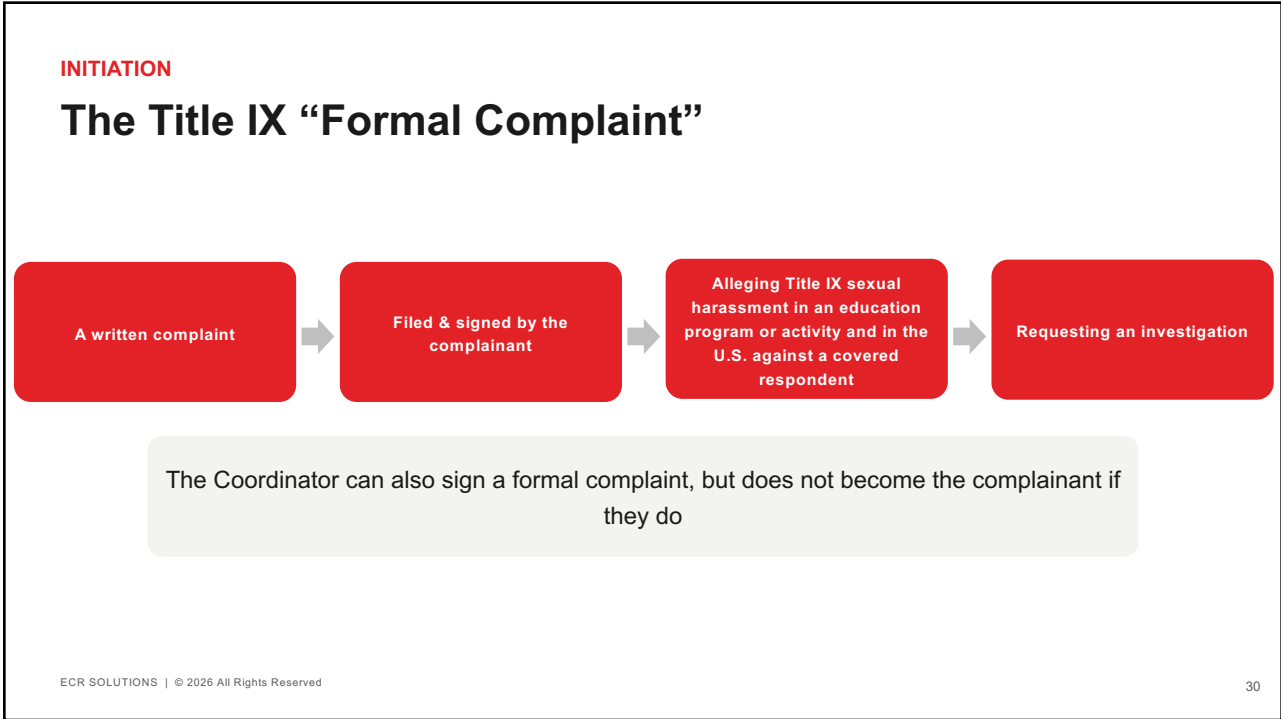
Supportive Measures Meeting Checklist - Complainant

- **Ask what the Complainant needs to access school or work**
Do not require the Complainant or their parents to come up with supportive measures; be creative
- **Discuss confidentiality (and limits), mandatory reporting obligations, retaliation protections, and next steps for conduct**
Remember that lack of clarity often leads to complaints of lack of care
- **Explain the right to make outside reports or complaints**
Examples include OCR, BOLI (employment discrimination), TSPC (educator misconduct), law enforcement, and DHS (abuse or criminal conduct)
- **Confirm measures or explain next steps for supports**
Do not commit if you are unsure if you can provide measures; explain how you will confirm

Write it Down!

Regardless of whether you meet or speak in person, send a written follow-up message with all details to the Complainant and/or a minor Complainant's parents

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0/0

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ID: 176-126-582

Question slide

A student emails a teacher and says “My boyfriend sexually assaulted me on the band trip last weekend. I need help.” Is that a “formal complaint” under Title IX?

No. The student must sign the complaint for it to be a formal complaint.		0%
No. It was not filed with the Title IX Coordinator and does not request an investigation.		0%
No. A minor student’s complaint is not a formal complaint unless a parent signs it.		0%
Yes. It includes all elements of a formal complaint.		0%



0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

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0/0

Join at: **vevox.app**

ID: **176-126-582**

Question slide

You received an oral report and request to investigate, but not in writing. What do you do?

Begin investigating immediately under Title IX because Oregon law allows oral reports		0%
Explain in writing that a formal complaint is required under Title IX, restate the allegations, and ask for the Complainant’s confirmation to treat the correspondence as a formal complaint		0%
Notify the Complainant to complete the District’s formal complaint form because the Complainant’s written, signed complaint is required under Title IX		0%
Do not take any further action unless the Complainant files a formal complaint		0%



0/0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

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0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

True or False: Anonymous reports can be dismissed because of a lack of ability to investigate.

True, because you cannot interview the complainant		0%
True, because the report is anonymous		0%
False. If enough information is provided to initiate the process, you should.		0%
False. Every anonymous report must result in an investigation.		0%



0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

True or False: Anonymous reports can be dismissed because of a lack of ability to investigate.

True, because you cannot interview the complainant		0%
True, because the report is anonymous		0%
False. If enough information is provided to initiate the process, you should.	☒	0%
False. Every anonymous report must result in an investigation.		0%

INITIATION

Anonymous Reports

- Would not qualify as a formal complaint**
Formal complaints must be signed by the complainant; with an anonymous report, we lack the signature and identity necessary
- Evaluate the information provided**
The Title IX Coordinator should evaluate the information provided, including whether additional information can be obtained
- Coordinator can sign a formal complaint**
If the situation needs to be investigated, sign a formal complaint
Example: "Coach Smith has been sending sexual messages to members of the girls' soccer team through Snapchat."
- Remember other approaches if no formal complaint**
Even when the Title IX grievance process cannot proceed, the school can take non-disciplinary steps, including safety measures, addressing broader climate concerns, and collecting and acting on data of trends

Anonymous ≠ Impossible

Do not ignore a report simply because you do not know who it comes from

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78

####

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ID: 176-126-582

Question slide

True or False. If law enforcement is involved, the school district must pause its involvement.

True. District involvement can ruin a law enforcement process.

0%

True, but only if requested by law enforcement.

0%

False. There is no requirement to delay, even if requested by law enforcement.

0%



####

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

True or False. If law enforcement is involved, the school district must pause its involvement.

True. District involvement can ruin a law enforcement process.

0%

True, but only if requested by law enforcement.

0%

False. There is no requirement to delay, even if requested by law enforcement.

0%

INITIATION

Concurrent Law Enforcement Activity

- **Institutional responsibility is independent**
The district has independent obligations under Title IX and other applicable policies, even if law enforcement is involved
- **Temporary delays may be appropriate**
If requested by law enforcement, the district may briefly pause parts of the process to allow police to collect evidence
- **What should not be delayed**
Supportive measures and notice of right to file a complaint, evaluation of a complaint, notice of allegations to respondent (unless requested not to provide by law enforcement), notice of delay for law enforcement purposes
- **Coordinate, but remain independent**
May communicate and coordinate with law enforcement, but should make independent decisions

Document It

Document law enforcement's request, the decision to delay (to both law enforcement and parties), and the decision to recommence

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81



###/###

Join at: **vevox.app**

ID: **176-126-582**

Question slide

The respondent pled guilty or was convicted. Which statement is most accurate?

The district must accept the criminal findings and find a policy violation.

0%

The district may not use any of the information from the criminal process.

0%

The district may consider relevant evidence from the law enforcement process but must make its own determination.

0%

The district must consider relevant evidence from the law enforcement process in making its determination.

0%



###

Join at: **vevox.app**

ID: **176-126-582**

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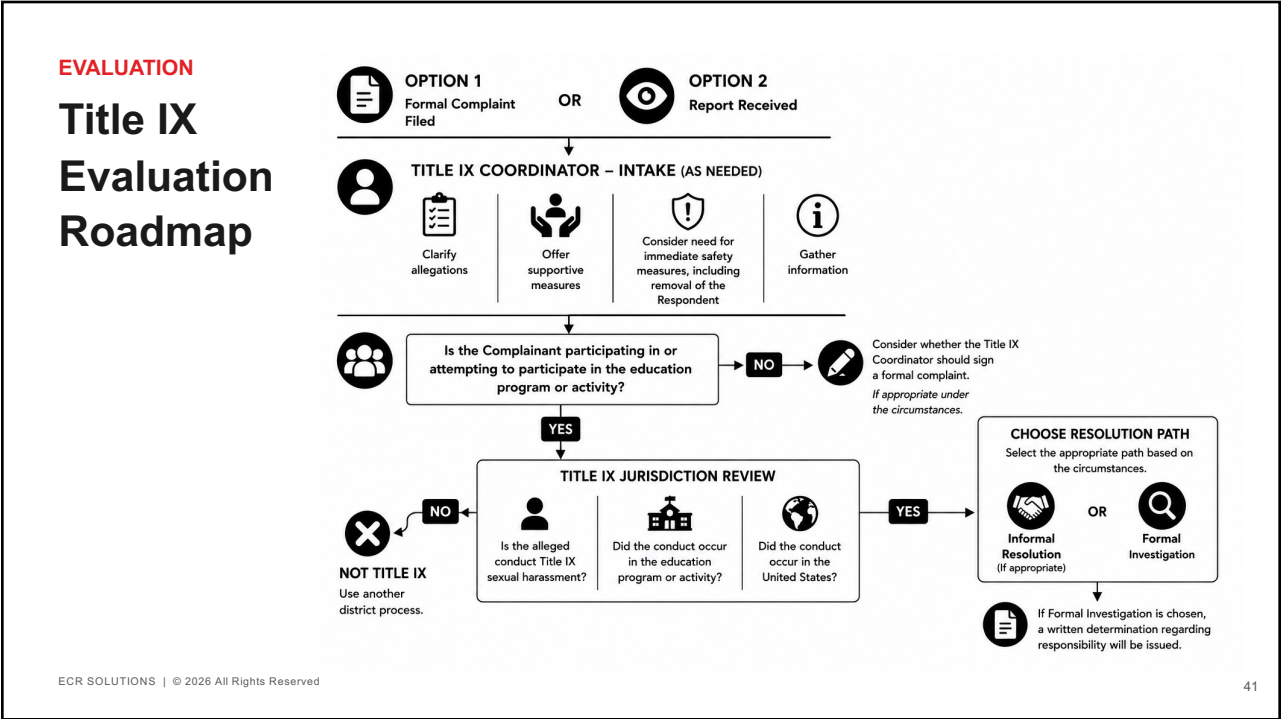
0%

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0%

The district must consider relevant evidence from the law enforcement process in making its determination.

0%



EVALUATION

What Evaluation Is (and Is Not)

Evaluation IS

Assessment of a report or complaint to understand the allegations

Identification of the policy that may have been violated

Consideration of jurisdictional questions

Preservation of evidence that might be lost (direct parties and obtain obvious and internally available evidence—e.g., video surveillance)

Consideration of safety and supportive measures

Evaluation IS NOT

Investigation of the concern

Gathering of evidence

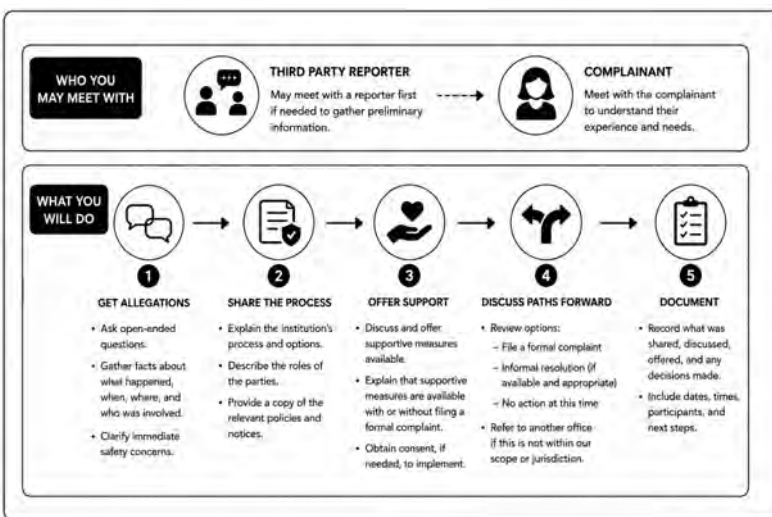
Assessment or Judgment of evidence, including existence of evidence, its credibility, or its weight

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85

EVALUATION

How Do You Evaluate? Intake



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A NOTE ON NOTES

Good notes protect fairness, support decision-making, and show your work.

GOOD NOTES ALWAYS INCLUDE, NO MATTER HOW INFORMAL THE CASE.

- NAMES OF THOSE PRESENT**
Name of interviewer, name of interviewee, and anyone else present (e.g., advisors, interpreters, observers).
- DATE**
The date of the meeting or interview.
- TIME / LENGTH**
Start time, end time, and total length.
- LOCATION**
Where the meeting or interview took place (in person, phone, video, other).
- SUMMARY OF WHAT WAS DISCUSSED**
Key points and information provided.
- FULL PICTURE: QUESTIONS ASKED AND ANSWERS GIVEN, IN CONTEXT**
Capture the questions asked, the answers given, and the context—tone, demeanor, clarifications, and follow-up.

48

EVALUATION

Intake Questions

- **Intake questions are aimed at finding out about allegations**
Who, what, when, where, why, how
What happened? Where did it happen? When?
- **“Allegations”**
Facts alleged that, if substantiated, could violate a policy of the district
- **Documentation Practices**
Prepare professional, clear notes of the intake interview (or record)
Share a summary of the notes (or a transcript) with the complainant
Write allegations and share with the complainant for confirmation
- **What does the complainant want?**
This is a fair question at the intake stage as it may guide which process (formal or informal) you pursue

Evaluation Matters

Evaluation is an important stage. It should not be an afterthought as it prepares for everything that comes after.

EVALUATION

The End of Intake



By the conclusion of intake, the Title IX Coordinator **SHOULD KNOW**



The essential facts needed to identify the applicable grievance process and prepare the Notice of Allegations



Whether the complainant wishes to pursue the Title IX grievance process by filing (or intending to file) a formal complaint



Whether the Title IX Coordinator should sign a formal complaint if the complainant does not



What supportive measures should be offered to the complainant after notice of rights and options



Whether emergency removal or administrative leave should be implemented and, if so, what supportive measures should be offered to the respondent after notice of applicable rights



By the conclusion of intake, the Title IX Coordinator **SHOULD NOT KNOW**



Whether the allegations are true



Whether the complainant or respondent is more credible



Whether the evidence supports a policy violation



Whether the respondent admits or denies the allegations

EVALUATION

Notice of Allegations

What it should contain (required for Title IX)

Detailed allegations (who, what, when, where, why, how)—detailed enough to prepare a response

The specific policy provisions allegedly violated

The presumption of non-responsibility and the standard of proof

Advisor rights, retaliation prohibition, and prohibitions against false statements

Drafting Traps

Drafting allegations that are too vague increases the risk of poor investigations, appeals, administrative complaints, and litigation

Failing to supplement the notice when new allegations or material facts emerge during the investigation

Defining the scope or applicable policies too narrowly, leaving no clear path to address issues that may remain if initial policy violations are not found

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89

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ID: 176-126-582

Question slide

A formal complaint is filed, but the conduct alleged, even if substantiated, would not be Title IX sexual misconduct in an education program or activity or in the U.S. No notice of allegation was sent. What should you do?

Notify the Complainant in writing that you are dismissing the complaint and will address it under a non-Title IX policy, if appropriate

0%

Issues a notice of allegation to the Respondent. Then issue notices of dismissal to both parties.

0%

Issues notices of allegations and dismissals to both parties.

0%



####

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

A formal complaint is filed, but the conduct alleged, even if substantiated, would not be Title IX sexual misconduct in an education program or activity or in the U.S. No notice of allegation was sent. What should you do?

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Issues a notice of allegation to the Respondent. Then issue notices of dismissal to both parties.		0%
Issues notices of allegations and dismissals to both parties.	☒	0%

EVALUATION

Option 2: Dismissal

- Title IX *requires* that notices of allegations be sent to both parties promptly upon receipt of a formal complaint
- It is appropriate to dismiss a formal complaint if the alleged facts, if substantiated, would not constitute a violation of policy; Title IX requires the dismissal to be in writing *to both parties*
- For Title IX, if you dismiss for a *jurisdictional* basis, you *may* use another policy to address the alleged conduct, but if you dismiss for a *permissive/discretionary* basis, you *may not*—the Title IX process is the appropriate process to use for alleged conduct that, if proved, would be Title IX sexual harassment
- Best practice is to notify the parties in the dismissal document or in an email or other written communication shortly thereafter what, if any, other process will be used

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92

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Join at: **vevox.app**

ID: **176-126-582**

Question slide

Formal complaint: “My daughter has been severely sexually harassed at school all year. Everyone knows what happened. The district needs to investigate.” The district asks for details about who was involved, what happened, when it occurred, and why the parent believes it was harassment. The parent never responds, but ongoing news reports make clear the parent is still alleging discrimination occurred. What do you do?

Offer supportive measures, but do not investigate unless the parent provides additional information		0%
Try your best to investigate because you have a formal complaint and it is clear that the parent believes harassment occurred under Title IX		0%
Dismiss the complaint because the parent refused to cooperate		0%
In writing explain what information is needed, provide a deadline to supply it, and if not received dismiss in writing		0%

0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

Formal complaint: “My daughter has been severely sexually harassed at school all year. Everyone knows what happened. The district needs to investigate.” The district asks for details about who was involved, what happened, when it occurred, and why the parent believes it was harassment. The parent never responds, but ongoing news reports make clear the parent is still alleging discrimination occurred. What do you do?

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In writing explain what information is needed, provide a deadline to supply it, and if not received dismiss in writing	<input checked="" type="text"/>	0%

EVALUATION

Dismissal of Conclusory Allegations

- OCR's [Case Processing Manual](#) allows dismissal of an allegation that, on its face or as clarified, lacks sufficient factual detail (e.g., who, what, where, when, how), or is so speculative, conclusory or incoherent that OCR cannot infer that discrimination or retaliation may have occurred or may be occurring
- It provides that this provision applies where the complaint allegation (including any additional information provided by the complainant) does not provide sufficient information to raise the allegation above the level of speculation, stating: "The complaint must provide more than bare conclusions of alleged violations of the laws and regulations enforced by OCR."
- Before dismissing for this basis, OCR will contact the complainant either by telephone or in writing to explain the information necessary to open an investigation, request that the information be received within 14 calendar days, and inform the complainant that the allegation(s) will be dismissed if the information is not received by that date. It can then dismiss if no request for more time and appropriate information is not received by the deadline.

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95

EVALUATION

Dismissal of Conclusory Allegations

- If the available information is not enough to determine whether the reported conduct may constitute sex discrimination or which grievance process applies, the Title IX Coordinator should seek clarification before deciding whether to proceed.
- Clarification may be needed regarding:
 - Who was involved
 - What conduct is alleged
 - When and where it occurred
 - Whether the conduct may fall within the school's Title IX policy
 - Whether the complainant wishes to pursue formal resolution
- Before declining to initiate a grievance process, the Coordinator should:
 - Explain what additional information is needed
 - Provide a reasonable opportunity to supply it
 - Make and document reasonable follow-up efforts
- If sufficient information is still not provided, the Coordinator may decline to initiate the grievance process at that time, document the basis for the decision, and advise that the matter may be reconsidered if additional information becomes available.

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Leaderboard

Position	Participants	Score	Time
			

Total participants: #

Average Score: # / #

THE BIG BOARD

5 tickets

15 tickets

10 tickets

JACKPOT +30

5 tickets

WHAMMY

20 tickets

5 tickets

WHAMMY

5 tickets

10 tickets

15 tickets

10 tickets

JACKPOT +30

WHAMMY

10 tickets

10 tickets

5 tickets

5 tickets

WHAMMY

Round Three

Playing a Fair Game



KNOW THE BOARD

Know Your Players: Roles in a Title IX Case

The School's Lineup

Title IX Coordinator—receives reports, explains processes, oversees supportive measures, weighs signing a formal complaint, decides/implements dismissals, keeps the process moving and helps other roles do their jobs

Investigator—gathers evidence for and against, shares directly related evidence, writes the report

Decision-maker—oversees written Q&A process, writes final determination

Appellate decision-maker—reviews limited challenges to dismissals and final determinations

Informal resolution facilitator—facilitates informal resolutions between parties

The Parties & Other Players

Complainant—the person allegedly subject to Title IX sexual harassment

Respondent—the person who allegedly engaged in Title IX sexual harassment

Parent/Guardian of Minor Party—can participate in the process and act on a party's behalf, including filing a formal complaint, except standing in for the party in an interview

Advisor—any person, in addition to a minor complainant's parents/guardians, who supports a party by attending meetings, engaging in communications, or otherwise participating in the process with the party (can be, but need not be, an attorney)

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100

KNOW THE BOARD

District Role Players

	 TITLE IX COORDINATOR	 INVESTIGATOR	 DECISION-MAKER	 APPEAL OFFICER	 INFORMAL RESOLUTION FACILITATOR
 TITLE IX COORDINATOR	✓	✓	✗	✗	✓
 INVESTIGATOR	✓	✓	✗	✗	✓
 DECISION-MAKER	✗	✗	✓	✗	✓
 APPEAL OFFICER	✗	✗	✗	✓	✓
 INFORMAL RESOLUTION FACILITATOR	✓	✓	✓	✓	✓

✓ Can serve in this role

✓ Allowed, but not recommended

✗ Cannot serve in this role

IMPORTANT FOR EVERY ROLE:

- Must be trained
- Free of conflicts and bias
- Roles can't double up where regulations prohibit it

SMALL-DISTRICT REALITY:

When you run out of hats, borrow players—ESD contracts, neighboring districts, or outside investigators.

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0/0

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ID: 176-126-582

Question slide

When a parent files a formal complaint about their child, the parent should be referred to as:

The Reporting Party

0%

The Reporting Parent

0%

The Complainant

0%

The Complainant's Parent

0%

0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

When a parent files a formal complaint about their child, the parent should be referred to as:

The Reporting Party		0%
The Reporting Parent		0%
The Complainant		0%
The Complainant's Parent	☒	0%

0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

When a Title IX Coordinator signs a formal complaint on behalf of the institution, the person alleged to have been subjected to the alleged conduct is called:

Alleged victim		0%
Claimant		0%
Complainant		0%
Affected Party		0%
Impacted Party		0%
Accuser		0%

 0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

When a Title IX Coordinator signs a formal complaint on behalf of the institution, the person alleged to have been subjected to the alleged conduct is called:

Alleged victim		0%
Claimant		0%
Complainant	<input checked="" type="text"/>	0%
Affected Party		0%
Impacted Party		0%
Accuser		0%

INVESTIGATION

Why Investigate?

- A safe, fair school**
Addressing misconduct promptly can help with deterrence
- Morale & trust**
People report more where complaints are handled credibly
- Reputation**
External accountability can create long-lasting damage
- Compliance**
Many laws require specific investigatory responses (e.g., Title IX)
- Legal protection**
Prompt, appropriate, documented action is the backbone of every defense.

The Key

An investigation is the institution proving—to the parties, to OCR/DOJ/etc., and to a jury—that it took the report seriously

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106

INVESTIGATION

Hallmarks of Every Investigation

1

Clear Allegations

Clear, ideally written allegations

2

Evidence Collection

Planned, documented, proportionate to the stakes

3

Analysis & Decision

Facts found, policy applied, rationale written

4

Consequences

Discipline, remedies, and prevention that fit the findings

5

Documentation

A file that can defend the outcome years later

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107

INVESTIGATION

Investigation Scope

Small “i”

Everyday workplace or student issues

Limited fact gathering

No policy requiring extensive process

Brief documentation

Big “I”

Serious misconduct allegations
Almost all civil rights complaints

Broader scope of investigation

Comprehensive documentation

Greater risk of legal or administrative challenge

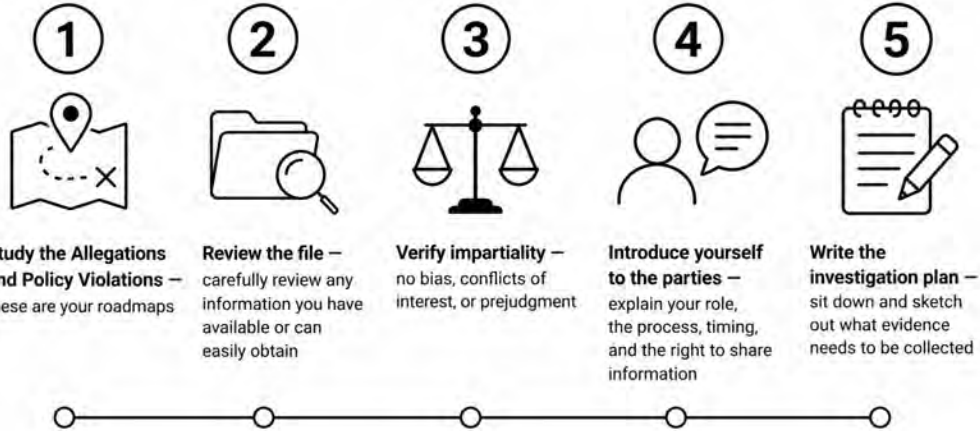
Always align scope of investigation with policy requirements.

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INVESTIGATION

Getting Ready to Investigate



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109

INVESTIGATION

Impartial Means Three Things

Three partiality traps

Bias: Leanings about the people—“he’s a great coach,” “she’s dramatic”

Conflict of interest: A stake in the outcome: reporting lines, friendships, your own prior decisions

Prejudgment: Deciding before the evidence is in—“this is going to be they said, they said”

How to avoid the traps

Recognize your bias so you can put them to the side

Ask yourself “if a reasonable person knew your connections, would they trust the outcome?”

Have a blank mind—No theories until the evidence is in

Treat parties the same to the greatest extent possible

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0/0

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ID: 176-126-582

Question slide

Which should be avoided to protect impartiality?

The same investigator is assigned to cross-complaints by parties against each other		0%
The investigator recommends a supportive measure for one party but not the other		0%
The investigator repeatedly firmly redirects one party for unprofessional behavior		0%
All of the above should be avoided inherently		0%
None of the above should be avoided inherently		0%

0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

Which should be avoided to protect impartiality?

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The investigator repeatedly firmly redirects one party for unprofessional behavior		0%
All of the above should be avoided inherently		0%
None of the above should be avoided inherently	<input checked="" type="text"/>	0%

Investigation

Practice – Investigation Plan



Jordan filed a Title IX complaint against another student in February.

Two weeks later, Jordan’s teacher removed Jordan from a student leadership position, explaining that Jordan was “no longer a good fit for the team.”

Jordan alleges the removal was retaliation for filing the Title IX complaint.

INVESTIGATION

The Investigation Plan

1 IDENTIFY THE ELEMENTS IN THE ALLEGATION



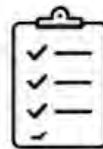
READ THE ALLEGATION CAREFULLY

Understand exactly what conduct is being alleged.



IDENTIFY THE APPLICABLE POLICY AND ELEMENTS

Look to the policy definition and any guidance to list each required element.



BREAK THE ALLEGATION INTO DISCRETE ELEMENTS

Write each element as a question that must be answered.

Investigation

Practice – Investigation Plan

STEP 1: TITLE IX RETALIATION ELEMENTS

1

PROTECTED ACTIVITY

Did Jordan engage in protected activity under Title IX (e.g., filing a complaint)?

?

2

ADVERSE ACTION

Would a reasonable student find the teacher's removal from the leadership position materially adverse?

?

3

CAUSAL CONNECTION

Is there evidence that the removal was because of Jordan's protected activity?

?

4

LEGITIMATE, NON-RETALIATORY REASON WAS PROVIDED

Does the evidence support a legitimate, non-retaliatory reason for the removal?

?

5

PRETEXT

Is there evidence that the stated reason is a pretext for retaliation?

?

STEP 2: PRETEXT ANALYSIS

To address Step 1, #5 (pretext), consider:

Was there documentation of performance or conduct issues before the complaint?

?

What was the timing between the protected activity and the removal?

?

What evidence supports the reason given ("no longer a good fit for the team")?

?

How has the school treated other students in similar situations?

?

Have the explanations for the removal been consistent over time?

?

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115

Investigation

Practice – Investigation Plan

“

Jordan filed a Title IX complaint against another student in February.

Two weeks later, Jordan's teacher removed Jordan from a student leadership position, explaining that Jordan was “no longer a good fit for the team.”

The investigator interviews Jordan, who says, “I was removed because I filed the complaint.”

The investigator interviews the teacher, who says, “Absolutely not. It was because of Jordan's declining performance and professionalism.”

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116

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58

0/0

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ID: **176-126-582**

Question slide

What should the investigator do if the parties provide conflicting accounts?

Require the Complainant to provide some additional evidence to support their claim		0%
Require the Respondent to provide some additional evidence refuting the claim		0%
Actively seek additional relevant evidence that could corroborate or refute those facts		0%



0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

What should the investigator do if the parties provide conflicting accounts?

Require the Complainant to provide some additional evidence to support their claim		0%
Require the Respondent to provide some additional evidence refuting the claim		0%
Actively seek additional relevant evidence that could corroborate or refute those facts	<input checked="" type="text"/>	0%

INVESTIGATION

Identifying Evidence

- The institution, not the parties, is responsible for conducting a thorough investigation and developing the evidentiary record
- Use the allegations to identify reasonably available sources of relevant information, including witnesses, documents, electronic records, and other evidence the parties may not have identified
- Do not count on parties to confirm witness availability; explain the importance of witnesses to the case if they are reluctant to share contact names

INVESTIGATION

The Investigation Plan

 POLICY ELEMENT (What must be proven?)	 KEY QUESTION (What do we need to answer?)	 WHAT SHOULD YOU LOOK FOR? (Types of information to look for)	 WHY DOES IT MATTER? (What does it help establish?)	 WHERE MIGHT YOU FIND IT? (Potential sources)
 1 Protected Activity Did the Complainant engage in activity protected by the policy?	What protected activity occurred?	▪ Complaint or report ▪ Emails or messages ▪ Statements to school officials ▪ Witnesses to the report	Determines whether the Complainant engaged in activity protected by Title IX.	▪ Complainant ▪ Title IX records ▪ Emails ▪ Witnesses
 2 Materially Adverse Action Did the Complainant experience an action that would deter a reasonable person?	What action allegedly harmed the Complainant?	▪ Discipline ▪ Loss of opportunities or benefits ▪ Schedule or assignment changes ▪ Exclusion or isolation ▪ Negative evaluations ▪ Changes in treatment	Determines whether the action could deter a reasonable person from engaging in protected activity.	▪ Parties ▪ Supervisors ▪ Personnel/student records ▪ Emails ▪ Witnesses
 3 Knowledge Did the Respondent know about the Complainant's protected activity?	How did the Respondent learn about the protected activity?	▪ Emails ▪ Meetings or conversations ▪ Witness testimony ▪ Timeline of awareness	Determines whether the Respondent knew of the protected activity before taking the adverse action.	▪ Respondent ▪ Witnesses ▪ Emails ▪ University records
 4 Causal Connection Is there a link between the protected activity and the adverse action?	What evidence links the protected activity to the adverse action?	▪ Timing between events ▪ Statements or comments ▪ Inconsistent explanations ▪ Comparator evidence (others not engaged in protected activity) ▪ Pattern of behavior	Determines whether the adverse action was likely because of the protected activity rather than for another legitimate reason.	▪ Parties ▪ Witnesses ▪ Emails ▪ Personnel/student records

Investigation

Practice – Investigation Plan

“ Jordan files a Title IX complaint alleging that four other students—Sam, Casey, Devon, and Riley—engaged in sex-based harassment during the fall semester.

Jordan alleges that the group repeatedly made sexual jokes during class and in a group chat, commented on Jordan's body and appearance, and created and shared a meme comparing Jordan to a sexualized image. Jordan states that after asking the group to stop, the students continued the conduct and began excluding Jordan from group activities.

Jordan alleges that the conduct occurred over several months, caused significant emotional distress, and interfered with Jordan's ability to participate in class and in a student organization.

Sam, Casey, Devon, and Riley deny harassing Jordan. They state that the comments were jokes, that everyone in the group participated in similar humor, including Jordan, and that Jordan was not intentionally excluded.

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121

INVESTIGATION

The Investigation Plan

POLICY ELEMENT (What must be proven?)	KEY QUESTION (What do we need to answer?)	WHAT TO LOOK FOR (Types of information to look for)	WHY IT MATTERS (How it helps prove or disprove this element)	WHERE TO LOOK (Potential sources)
1 Based on Sex Was the conduct based on sex, sex stereotypes, or gender?	Was the conduct sexual in nature or related to sex, sex stereotypes, or gender?	- Exact words of jokes/comments - Content of group chat and memes - Statements about gender or stereotypes - Comparator evidence (how others were treated) - Witness observations	Shows that sex was a factor in why the conduct occurred.	- Parties - Classmates and group members - Group chat screenshots/records - Memes/images - Social media posts
2 Unwelcome Was the conduct unwelcome?	Did Jordan communicate that the conduct was unwelcome, or was the group otherwise aware or should have been aware?	- Statements Jordan made to the group - Messages (DMs or group chat) asking to stop - Witnesses to Jordan's statements or reactions - Group's responses after being asked to stop - Tone and context of interactions	Shows the conduct was not invited or desired and that the group knew or should have known it was unwelcome.	- Parties - Witnesses - Group chat messages - Other DMs or texts
3 Severe, Pervasive, and Objectively Offensive Was the conduct sufficiently severe, pervasive, and objectively offensive?	Considering the totality of the circumstances, was the conduct severe or pervasive enough that a reasonable person would find it objectively offensive?	- Timeline and duration (several months) - Frequency of jokes, comments, and messages - Nature and severity of comments/memes - Multiple actors involved - Settings (class, group chat, organization events) - Impact on Jordan (emotional distress, academic) - Witness statements	Helps determine whether the conduct meets the standard for harassment under the policy.	- Parties - Classmates and witnesses - Group chat and class records - Organization records - School records
4 Denied or Limited Educational Access Did the conduct limit Jordan's ability to participate in or benefit from education?	Did the conduct interfere with Jordan's ability to participate in or benefit from class or student organizations?	- Stopped participating in class or discussions - Stopped attending organization meetings/events - Impact on grades or academic performance - Requests for accommodations or support - Counseling or health services sought - Statements about impact on education	Shows whether the conduct had a negative effect on Jordan's ability to participate in or benefit from the school's educational program or activities.	- Parties - Professors/instructors - Organization advisors/leaders - Academic records - Counseling or health records - School communications
5 In the Education Program or Activity Did the conduct occur in the school's education program or activity or within its context?	Did the conduct occur in a context connected to the school?	- Conduct in class, labs, or online class platforms - Conduct in student organization or related events - School-sponsored or supervised activities - Use of school resources (email, forums, etc.) - Location (on campus, study spaces, etc.)	Confirms the conduct occurred in the school's education program or activity and is within the school's jurisdiction.	- Class schedules and records - Organization rosters and events - Group chat platform records - School policies/communications - Witnesses

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122

INVESTIGATION

Evidence — Types & Weight

DE

Direct

Eyewitness accounts, recordings, admissions—proves the fact itself

CE

Circumstantial

Facts supporting inference—fully legitimate; most cases are built on it

DO

Documentary

Emails, texts, schedules, files—fixed in time, hard to argue with

EL

Electronic

Social media, DMs, system and location data—preserve early, authenticate

HS

Hearsay

Secondhand accounts—usable here, but weight depends on the chain

PH

Physical & pattern

Objects, injuries, prior complaints—handle pattern evidence with care

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123

TITLE IX TIPS

Directly Related vs. Relevant

Directly Related Evidence

Title IX requires that the school share all evidence directly related to the allegations with both parties—whether it supports or undermines the allegations

That includes evidence the district doesn't intend to rely on to reach a determination if it's "directly related"

Must give both parties a 10-day opportunity to respond in writing; the investigator must consider those responses before finalizing the investigation report

Relevant

Title IX requires that the investigator summarize all relevant evidence in the investigation report

Relevant evidence tends to make a material fact more or less likely to be true; ask whether the evidence helps answer a question the decision-maker must resolve

Information that is unrelated, duplicative, or does not bear on the allegations generally should not be relied upon

Not relevant: Privileged information, treatment records without written consent, and evidence about a complainant's sexual predisposition or prior sexual behavior (except the limited Title IX exceptions)

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124

 0/0

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ID: 176-126-582

Question slide

The respondent was cited for cheating on an exam six months before alleged verbal sexual harassment

Directly related

0%

Relevant

0%

Both

0%

Neither

0%



 0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

The respondent was cited for cheating on an exam six months before alleged verbal sexual harassment

Directly related

0%

Relevant

0%

Both

0%

Neither



0%

0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

The respondent was cited for underage drinking six months before an alleged incident

Directly Related		0%
Relevant		0%
Both		0%
Neither		0%



0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

The respondent was cited for underage drinking six months before an alleged incident

Directly Related		0%
Relevant		0%
Both		0%
Neither	<input checked="" type="text"/>	0%

 0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

The respondent was cited for underage drinking six months before an alleged sexual assault involving alcohol

Directly Related

0%

Relevant

0%

Both

0%

Neither

0%



 0/0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

The respondent was cited for underage drinking six months before an alleged sexual assault involving alcohol

Directly Related

0%

Relevant

0%

Both



0%

Neither

0%

 0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

The complainant says the respondent in a sexual harassment case has a reputation for being “creepy” and has several witnesses who wish to testify to support that claim.

Directly Related		0%
Relevant		0%
Both		0%
Neither		0%



 0/0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

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Directly Related	☒	0%
Relevant		0%
Both		0%
Neither		0%

####

Join at: **vevox.app**

ID: **176-126-582**

Question slide

A witness says that the complainant told a friend who told the witness's sister that they consented but later the complainant denies consenting

Directly Related		0%
Relevant		0%
Both		0%
Neither		0%

####

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

A witness says that the complainant told a friend who told the witness's sister that they consented but later the complainant denies consenting

Directly Related		0%
Relevant		0%
Both	<input checked="" type="text"/>	0%
Neither		0%

 0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

The complainant has previously filed another similar Title IX complaint against someone else

Directly Related		0%
Relevant		0%
Both		0%
Neither		0%



 0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

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Directly Related		0%
Relevant		0%
Both	<input checked="" type="text"/>	0%
Neither		0%

 0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

The complainant wants to share counseling records that disclose emotional distress. The respondent wants to ask quesitons about it.

Directly Related		0%
Relevant		0%
Both		0%
Neither		0%



 0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

The complainant wants to share counseling records that disclose emotional distress. The respondent wants to ask quesitons about it.

Directly Related		0%
Relevant		0%
Both	<input checked="" type="text"/>	0%
Neither		0%

####

Join at: **vevox.app**

ID: **176-126-582**

Question slide

The respondent describes information the complainant previously shared about the complainant’s medical records to show a mental health impairment that can lead to false allegations

Directly Related		0%
Relevant		0%
Both		0%
Neither		0%



####

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

The respondent describes information the complainant previously shared about the complainant’s medical records to show a mental health impairment that can lead to false allegations

Directly Related	☒	0%
Relevant		0%
Both		0%
Neither		0%

INVESTIGATION

Preparing for Interviews

Prepare

An outline per interviewee, mapped to elements
Documents ready to show, exhibits marked and dated
A standard intro: role, process, confidentiality limits, no-retaliation, expectations

Set the conditions

Advisors & support persons: Same rules for every party, roles explained up front
Recording or notetaker: Be consistent between parties, obtain consent
Logistics: Neutral space, enough time, interpreters and accommodations resolved beforehand

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INVESTIGATION

Questioning Techniques – The “Funnel”



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INVESTIGATION

Questioning Techniques – Questions to Avoid

LEADING QUESTIONS



- Suggest the answer or assume facts not in evidence.

EXAMPLE

"You were at the party at 10 p.m., correct?"

COMPOUND QUESTIONS



- Ask more than one question at a time.

EXAMPLE

"Did you see him enter the room and what was he wearing?"

JUDGING QUESTIONS



- Express an opinion about the witness or the facts.

EXAMPLE

"That was a very irresponsible thing to do, wasn't it?"

PROMISING QUESTIONS



- Promise a benefit or imply a reward for the answer.

EXAMPLE

"If you help us, we can make sure you don't get in trouble, okay?"

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143

INVESTIGATION

Challenges During the Investigation

Working with People

Reluctant witnesses: Explain retaliation protections, encourage participation, and document all outreach efforts

Anonymous reports or limited evidence: Investigate what you reasonably can, document limitations, and avoid filling gaps with assumptions

Attorneys and advisors: Set expectations early, maintain control of the interview, and enforce participation rules consistently

Trauma, emotion, and conflict: Allow parties and witnesses space to be heard while maintaining neutrality and keeping the interview focused

Navigating Process

FERPA and confidentiality: Know when records may be shared for investigative purposes and route requests appropriately

Parents and family members: Parents and guardians may act on behalf of their student in the Title IX process, and FERPA rights belong to parents of minors—keep them informed while centering the student

Accommodations and accessibility: Identify and provide appropriate accommodations so all participants can meaningfully engage in the process

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144

INVESTIGATION

Notetaking

- Document interviews, phone calls, and evidence as you go; interview notes, evidence logs, dates and times for meetings and other procedural steps
- Verbatim transcription is not required, but thorough notes are; consider recording interviews or using a second note taker in civil rights investigations
- Write your notes as though someone else will need to understand and evaluate your investigation months later—good documentation is the best evidence that your investigation was fair, thorough, and impartial

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A NOTE ON NOTES

Good notes protect fairness, support decision-making, and show your work.

GOOD NOTES ALWAYS INCLUDE, NO MATTER HOW INFORMAL THE CASE.

- 
NAMES OF THOSE PRESENT
 Name of interviewer, name of interviewee, and anyone else present (e.g., advisors, interpreters, observers).
- 
DATE
 The date of the meeting or interview.
- 
TIME / LENGTH
 Start time, end time, and total length.
- 
LOCATION
 Where the meeting or interview took place (in person, phone, video, other).
- 
SUMMARY OF WHAT WAS DISCUSSED
 Key points and information provided.
- 
FULL PICTURE: QUESTIONS ASKED AND ANSWERS GIVEN, IN CONTEXT
 Capture the questions asked, the answers given, and the context—tone, demeanor, clarifications, and follow-up.

145

INVESTIGATION

Investigation Reports – Summary of the Investigation

- Basic Structure**
 Every complaint should have a written document explaining the allegations and the procedural steps taken, and summarizing the evidence collected
- Best if evidence is summarized by disputed fact/issue**
 Your file should contain interview and evidence summaries; that's not the point of a report
- Better to be too thorough than not enough**
 Someone who picks up the report a year later and has never heard of the case should ideally be able to catch up by reading just the report

Yes—Some Reports Include Decisions

Not allowed in Title IX
We will discuss this in the next section

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INVESTIGATION

Example – Evidence Chart

Exhibit No.	Date	Description of Evidence	Source
Ex. 1	02/13/2025 – 02/14/2025	Text messages between Complainant and Respondent	Complainant
Ex. 2	02/14/2025	Email from Respondent to Complainant	Respondent
Ex. 3	02/15/2025	Incident report submitted by Complainant	Complainant
Ex. 4	02/14/2025	Surveillance video – Building Lobby	Investigator
Ex. 5	02/24/2025	Interview Summary – Witness A	Witness A

INVESTIGATION

Report Style – Side by Side Examples

 COMPLAINANT JAMIE	Jamie stated that Alex repeatedly made sexual jokes during study group meetings, commented on Jamie's body, sent inappropriate DMs, and continued after Jamie asked Alex to stop. Jamie eventually stopped attending the study group.	 DISPUTED FACT #1	Jamie, Morgan, and Taylor all described instances in which Alex made sexual jokes and comments about Jamie's body during study group meetings. Jamie also reported that Alex sent inappropriate direct messages. Alex denied making sexual comments and stated that the group's joking was general in nature.
 RESPONDENT ALEX	Alex denied making sexual jokes and stated everyone joked around. Alex denied that Jamie ever asked Alex to stop and stated Jamie voluntarily left the study group.	 DISPUTED FACT #2	Jamie stated she told Alex the comments were making her uncomfortable and sent a direct message asking Alex to stop. Alex acknowledged receiving the message but stated it was intended as a joke. The evidence is mixed as to whether Alex understood the conduct was unwelcome.
 WITNESS 1 MORGAN	Morgan stated Alex frequently joked about sex during study group meetings and remembered Jamie looking uncomfortable.	 DISPUTED FACT #3	Jamie reported that the conduct continued after she asked Alex to stop via direct message. Morgan recalled hearing similar sexual jokes during subsequent meetings. Alex denied making any additional sexual comments after receiving the message.
 WITNESS 2 TAYLOR	Taylor remembered hearing some jokes but did not remember all of the incidents Jamie described.	 DISPUTED FACT #4	Jamie reported that she stopped attending the study group because of the conduct. Records show Jamie stopped attending after October 12, and Morgan confirmed that Jamie did not attend later meetings. Alex stated Jamie voluntarily left the study group.

DETERMINATION

The Decision-Maker's Job

- **Oversee the written Q&A process**
A written question and answer process takes the place of a “hearing” in K-12
- **Makes relevance determinations**
As part of the written Q&A process, the decision-maker must determine whether questions are relevant, providing justifications to the questioning party if they are determined not to be relevant
- **Writes the written determination**
The written determination must be independent; if it reads like a rubber stamp on the investigation report, the decision may be subject to challenge

Something missing?

If the investigation leaves gaps, that cannot be filled through the written Q&A process, the decision-maker can send the case back to investigation

DETERMINATION

Writing the Determination

- **A required skeleton**
Allegations, procedural history, findings of fact, per-allegation rationale, result, sanctions, remedies, appeal rights
- **Answer the losing side**
The best determinations engage the strongest contrary arguments head-on
- **Plain language**
The parties, their lawyers, a federal agency, and possibly a court will read it—write for all four

Survivability test

A determination succeeds when every conclusion traces to a finding, and every finding to evidence.

DETERMINATION

Credibility Is an Analysis, Not an Instinct

- **Plausibility**
Does the account hang together against the undisputed facts?
- **Corroboration**
What independent evidence supports or contradicts each version?
- **Consistency**
Within an account and over time—but expect peripheral drift
- **Motive**
To fabricate or to minimize; needs to be more than just party status
- **Detail & Specificity**
Lived accounts carry texture; scripts stay smooth and general

Key rules

Credible ≠ Truthful
People are honestly wrong,
often--ask my husband ;)
Demeanor is the least reliable
factor: nerves and apathy are
not always signs of deception

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151



####

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ID: 176-126-582

Question slide

What is the result when the case is truly “they said, they said” (equipoise) under a preponderance standard?

Dismissal - circumstances prevent gathering sufficient evidence

0%

Sufficient evidence finding (in favor of complainant)

0%

Insufficient evidence finding (in favor of respondent)

0%

Finding of inconclusive (neither for or against either party)

0%



 ###/###

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

What is the result when the case is truly “they said, they said” (equipoise) under a preponderance standard?

Dismissal - circumstances prevent gathering sufficient evidence

0%

Sufficient evidence finding (in favor of complainant)

0%

Insufficient evidence finding (in favor of respondent)

✓

0%

Finding of inconclusive (neither for or against either party)

0%

DETERMINATION

Preponderance in Practice

50/50 is very rare

More likely than not — 50.01% necessary to establish a disputed fact

True equipoise is rare; make sure “they said, they said” does not mean “we stopped looking”

Contemporaneous disclosures, patterns, and small documentary anchors break most ties

Write the weighing down

Say which evidence you credited and why

Address the contrary evidence

If evidence truly is insufficient, say so plainly, explaining why

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154

DETERMINATION

Two Parts to any Determination

Factual Findings

Address each disputed fact separately and show how the evidence was weighed

Make findings specific, dated, and tied to the source

Explain credibility determinations instead of simply stating them

Application to Policy

Work through each policy element and state whether the evidence satisfies it

Apply the policy definitions as written; use outside sources only when the policy leaves a gap

If the conduct does not meet that standard, say so and identify any other policy that may apply

DETERMINATION

Sanctions & Remedies That Fit

Sanctions

Consider the seriousness of the conduct, whether it was isolated or part of a pattern, and any power imbalance before turning to mitigating factors

Strive for consistency; similar cases should generally result in similar outcomes

Coordinate with student services or HR before communicating sanctions, being mindful of state law, collective bargaining, and other policy requirements

Remedies

Consider remedies for the complainant, such as schedule changes, housing, academic support, and no-contact directives

Consider broader remedies when appropriate, including training, climate initiatives, or monitoring to address systemic concerns

Remedies serve a different purpose than sanctions and should be considered even when sanctions are limited or unnecessary

APPEAL

Appeals Are Not Do-Overs

Title IX Appeals

Procedural irregularity that affected the outcome

New evidence, not reasonably available earlier, that could affect the outcome

Conflict of interest or bias—coordinator, investigator, or decision-maker

All Appeals

Focus on the stated grounds for appeal, not whether you would have reached the same outcome

Tailor the remedy to the error; some issues require additional investigation or a new decision-maker, while others do not affect the outcome

Clearly explain the basis for your decision, your analysis, and the result of the appeal

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157

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ID: 176-126-582

Question slide

The coordinator dismisses a CSC case because the facts described by the complainant, if substantiated, would “obviously” not meet the sexual intent standard. Appeal outcome?

Appeal granted - procedural error affecting the outcome		0%
Appeal granted - bias affecting the outcome		0%
Appeal denied - procedural error but no effect on outcome		0%
Appeal denied - no procedural error		0%

0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

The coordinator dismisses a CSC case because the facts described by the complainant, if substantiated, would “obviously” not meet the sexual intent standard. Appeal outcome?

Appeal granted - procedural error affecting the outcome		0%
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Appeal denied - procedural error but no effect on outcome		0%
Appeal denied - no procedural error	<input checked="" type="text"/>	0%

0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

A disruptive advisor is ejected mid-process after repeated warnings and the process proceeds with an appointed advisor only. Appeal outcome?

Appeal granted - procedural error affecting the outcome		0%
Appeal granted - bias affecting the outcome		0%
Appeal denied - procedural error but no effect on outcome		0%
Appeal denied - no procedural error		0%



0/0

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ID: 176-126-582

Preparing Results

A disruptive advisor is ejected mid-process after repeated warnings and the process proceeds with an appointed advisor only. Appeal outcome?

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Appeal granted - bias affecting the outcome		0%
Appeal denied - procedural error but no effect on outcome		0%
Appeal denied - no procedural error	<input checked="" type="text"/>	0%

0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

After an insufficient evidence finding, the respondent texts a witness gloating about getting off and “double jeopardy.” Appeal result?

Appeal granted - new evidence that could affect the outcome		0%
Appeal denied - new evidence but could not affect the outcome		0%
Appeal denied - not new evidence as the respondent knew the information before the decision		0%

0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

After an insufficient evidence finding, the respondent texts a witness gloating about getting off and “double jeopardy.” Appeal result?

Appeal granted - new evidence that could affect the outcome

✓

0%

Appeal denied - new evidence but could not affect the outcome

0%

Appeal denied - not new evidence as the respondent knew the information before the decision

0%

INFORMAL RESOLUTION

What is Informal Resolution?

- An alternative to a formal determination that focuses on resolving concerns rather than determining whether a policy violation occurred
- May include mediation, facilitated dialogue, agreed-upon remedies, educational measures, or other tailored solutions
- Should be voluntary, appropriate for the circumstances, and based on the informed agreement of all participants

INFORMAL RESOLUTION

When Informal Resolution Is on the Table

Availability of IR

An option after a formal complaint has been filed, but before a determination is reached

Requires the voluntary, informed, written consent of all parties, and any party may withdraw at any time before an agreement is reached

Under the 2020 Title IX regulations, it may not be used to resolve allegations that an employee sexually harassed a student

Provide written notice of the allegations and IR requirements, and obtain each party's voluntary written consent—then document both

Factors to Consider

Consider the nature of the allegations, the parties' relationship, any power imbalance, community safety, and the complainant's goals

Informal resolution works best when both parties genuinely want to resolve the matter without a formal determination

Do not use informal resolution if there are concerns about coercion, pressure, or an attempt to manipulate the process

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165

INFORMAL RESOLUTION

Informal Resolution, Step by Step



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166

PUT AWAY YOUR BOARD

Closing the File

What the file contains

Keep complete records, including notices, interview notes, evidence, reports, determinations, appeals, and key communications

Document the reason for significant discretionary decisions, including dismissals, delays, extensions, and sanctions

Follow your institution’s record retention requirements. Under the 2020 Title IX regulations, records must be retained for at least seven years, but other laws or policies may require longer retention

After the outcome

Share information as required by law and institutional policy. Avoid assuming that nothing can be disclosed.

Make sure remedies are actually implemented and document when they are completed.

Follow up when appropriate to assess whether remedies are effective and whether there are concerns about recurrence or retaliation.



Positi n	Participants	Score	Time
🏆			

Total participants: 0

Average Score: - / 32



BIG WHAMMY #1

Jordan & Taylor

Jordan files a Title IX complaint alleging that Assistant Principal Taylor repeatedly made comments about Jordan's same-sex spouse that Jordan believed were inappropriate and demeaning. When Taylor is notified of the complaint, Taylor says that innocuous comments were being taken out of context and expresses concerns about future interactions leading to similar complaints.

Taylor asks for assistance on how to handle the typical one-on-one meetings with Jordan, committee meetings Jordan and Taylor are expected to attend together, and communication of routine assignments. Taylor also reports concerns about upcoming evaluations for Jordan, which Taylor is responsible for completing. Taylor says they want to protect both parties, not punish Jordan.

###/###

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ID: 176-126-582

Question slide

What is the best advice for Taylor's regular interactions with Jordan?

Temporarily postpone them even if Jordan does not request it to avoid any appearance of retaliation or witness influence	0%
Continue them as normal unless Jordan seeks changes as support	0%
Limit communications to email whenever possible so there is a written record of all interactions	0%

####

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ID: **176-126-582**

Preparing Results

What is the best advice for Taylor’s regular interactions with Jordan?

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Continue them as normal unless Jordan seeks changes as support		0%
Limit communications to email whenever possible so there is a written record of all interactions		0%

BIG WHAMMY #1

Retaliation

Spot It

Three initial elements:

- Protected activity (reporting, participating in a process—even as a witness or respondent)
- Adverse action
- Causal connection

Adverse action is broad: discipline, schedule or position changes, lost stipends or roles, grade impacts, exclusion from activities—for students, families, or staff

Causation often shows in timing, statements, and pattern

If these initial factors are shown, consider whether there is evidence of a legitimate, non-retaliatory justification for the adverse action and, if so, whether there is evidence that it is pretext for retaliation

Respond & Prevent

Treat every retaliation concern as a new report; offer the right to file a complaint

Remember that under Title IX, retaliation concerns are not required to be addressed using the Title IX sexual harassment procedures, but you must use a clear, published complaint process to address the behavior

Warn parties about retaliation risks at the start of every case and re-warn if friction surfaces

Use monitoring: regular check-ins with parties throughout the grievance process to check for retaliation concerns

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174

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87

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ID: **176-126-582**

Question slide

If Jordan claims retaliation for Taylor creating distance, but Taylor says the purpose was to protect both employees and that HR approved the changes. Is that enough to defeat a retaliation claim?

Yes, because Taylor acted in good faith and not with intent to harm		0%
Yes, because HR approved the changes, so they are presumed legitimate and non-retaliatory		0%
No, because the “protection” consists of negatively changing Jordan’s work experience		0%

0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

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Yes, because HR approved the changes, so they are presumed legitimate and non-retaliatory		0%
No, because the “protection” consists of negatively changing Jordan’s work experience	<input checked="" type="text"/>	0%

BIG WHAMMY #2

Jordan & Alex

The parent of Jordan, a fifth-grade student, reports that Jordan's teacher, Alex, has been giving Jordan frequent hugs, allowing Jordan to remain in the classroom during lunch, and sending electronic messages to Jordan after school. The parent also reports that Jordan recently said Alex touched Jordan's thigh while sitting next to Jordan during a movie shown in class. The parent is concerned that the relationship has become inappropriate and asks the school to "do something immediately."

0/0

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ID: 176-126-582

Question slide

What should the school do?

Interview Jordan to determine whether the allegations are credible		0%
Notify Alex of the complaint and ask for a response		0%
Contact law enforcement or CPS		0%

0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

What should the school do?

Interview Jordan to determine whether the allegations are credible		0%
Notify Alex of the complaint and ask for a response		0%
Contact law enforcement or CPS		0%

BIG WHAMMY #2

Employment Overlap

Remember external reporting requirements, if required (TSPC)

HR and the Title IX Coordinator must work together to avoid unnecessary duplication and contradictions

A student's supportive measures should never wait for the police or personnel process

After a finding, sanctions should flow through HR channels consistent with the CB employee policies, and handbooks, whereas remedies should flow to the student through student services

BIG WHAMMY #3

Morgan & Jordan

Morgan, a social studies teacher who is transgender, reports that during a classroom discussion about polarization in politics, Jordan, an eleventh-grade student, stated: “I don’t think men should be able to compete in women’s sports, even if they ‘think’ they are women. It’s just not fair.”

Later that evening, Jordan posted the following on a personal social media account from a personal device at home: “My tr**ny teacher made the mistake of talking politics today in class. I won. Biological sex is real, and no amount of pretending changes that.”

The post receives dozens of comments, many from other students debating the issue online. Some support Jordan, while others criticize Jordan’s views. Morgan receives screenshots of the post from several students and reports feeling targeted and concerned about returning to the classroom.



0/0

Join at: **vevox.app**

ID: 176-126-582

Question slide

Are Jordan’s statements unwelcome conduct based on sex?

Yes

0%

No

0%



 0/0

Join at: **vevox.app**

ID: **176-126-582**

Preparing Results

Are Jordan’s statements unwelcome conduct based on sex?

Yes

✓

0%

No

0%

BIG WHAMMY #3

The First Amendment

- A policy violation is not the end of the inquiry**

A preponderance finding that conduct meets a harassment standard (Title VI, Title VII, Title IX, or another civil rights law) does not, by itself, resolve whether discipline may be imposed.
- The First Amendment limits public institutions**

A public institution may not impose discipline or restrict speech that is constitutionally protected—even when the conduct satisfies the administrative harassment standard.
- Two separate questions**

Investigators and decision-makers must *separately* determine whether the expression is constitutionally protected.

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184

FIRST AMENDMENT

Some Speech is Unprotected

- 1 **True Threats:** Serious expressions of intent to commit unlawful violence against a person or group
- 2 **Incitement:** Speech directed to inciting imminent lawless action and likely to produce it
- 3 **Obscenity:** Narrowly defined; offensiveness alone never qualifies
- 4 **Defamation or Fraud:** False statements of fact that meet the applicable legal standards; not just “someone said something bad about me”
- 5 **Speech Integral to Criminal Conduct:** E.g., extortion or solicitation of a crime

If no recognized exception applies, the expression remains constitutionally protected.

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127

FIRST AMENDMENT

Time, Place & Manner Rules Are OK

TPM Rules CAN Support Restriction

Content-neutral rules governing when, where, and how expression **may occur**

Clear written policies that exist before the conduct at issue

Consistent enforcement against comparable expressive activity, regardless of message

Genuine fit the rule must actually apply to the expressive conduct at issue

Equal application to all speakers and subjects

TPM CANNOT Justify Discipline

No clear policy governing the expressive conduct at issue

Inconsistent history the institution has permitted comparable expressive activity in the past

Content-based or **viewpoint-based** invocation of an otherwise neutral rule

CAUTION: *If the institution lacks clear, consistently enforced, content-neutral policies—or has historically permitted comparable expressive activity—discipline generally cannot be justified on time, place, and manner grounds.*

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186

0/0

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ID: 176-126-582

Question slide

What would most strengthen the school’s ability to regulate Jordan’s in-class speech without discriminating based on viewpoint?

Several students found Jordan’s comment offensive		0%
Morgan reported feeling personally targeted by Jordan’s comments		0%
Jordan made the comments during math class while the teacher was instructing students on fractions		0%
No other students made comments opposing Jordan’s during the class discussion on politics		0%



0/0

Join at: **vevox.app**

ID: 176-126-582

Preparing Results

What would most strengthen the school’s ability to regulate Jordan’s in-class speech without discriminating based on viewpoint?

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FIRST AMENDMENT

Targeted Discriminatory Harassment

What it is....

In the *Mahanoy* Supreme Court case, the court said “serious or severe bullying or harassment” is one situation in which schools have a stronger regulatory interest in regulating, even when it occurs off campus and online

The harassment must be **targeting particular individuals**, not merely expressing views on a controversial issue.

The Court **did not hold that schools may always punish it**. It also expressly declined to establish a comprehensive rule for off-campus speech, explaining that the case before it did not require doing so.

Whether discipline is constitutionally permissible depends on a careful, fact-specific balancing of the school’s interests and the student’s free speech rights.

What it is not....

Offensive speech (offensiveness alone does not remove constitutional protection)

Distressing speech (even speech that is deeply distressing or reasonably perceived as discriminatory)

Merely Offensive

Merely Unpopular

Merely Controversial

Merely Perceived as Discriminatory

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189

FIRST AMENDMENT

ALWAYS Check for Viewpoint Discrimination

- **The core question**

Would the proposed discipline rest on disagreement with, or disapproval of, the viewpoint expressed?

- **Offensive is not enough**

Public institutions generally may not regulate or punish speech because it is offensive, disturbing, or unpopular.

- **Institutional disagreement is not enough**

Speech may not be punished because it expresses a viewpoint with which the institution disagrees.

- **Public concern gets strong protection**

This includes speech addressing matters of public concern, which receives the strongest constitutional protection.

The Test

The question is not only whether the school can regulate the speech, but whether it would regulate comparable speech expressing the opposite view

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190

Leaderboard

Position	Participants	Score	Time
			

Total participants: 0

Average Score: - / 37

THE BIG BOARD

5 tickets	5 tickets	WHAMMY	10 tickets	10 tickets
15 tickets	WHAMMY	5 tickets	JACKPOT +30	5 tickets
10 tickets	20 tickets	10 tickets	WHAMMY	5 tickets
JACKPOT +30	5 tickets	15 tickets	10 tickets	WHAMMY



Time for the Drawings!

