



Title IX Overview for Assistant Principals/Title IX Liaisons

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Training Objectives



- ▶ Provide an overview of the new Title IX regulations related to cases of sexual harassment.
- ▶ Help you understand the role you play on the Title IX Team.
- ▶ Make you aware of important Weekly Briefings.
- ▶ Provide guidance on the impact of schools operating virtually on Title IX issues.
- ▶ Create a more harmonious and respectful atmosphere.

Protected Categories

- ▶ Age*
- ▶ Color*
- ▶ Disability*
- ▶ Ethnic/National Origin*
- ▶ GINA*
- ▶ Family Medical Leave Act (FMLA)*
- ▶ Gender*
- ▶ Race*
- ▶ Religion*
- ▶ Pregnancy*
- ▶ Status
- ▶ Gender Identity
- ▶ Marital Status
- ▶ Sexual Harassment*
- ▶ Political Beliefs
- ▶ Social/Family Background
- ▶ Sexual Orientation
- ▶ Linguistic Preference
- ▶ Retaliation*
 - ▶ Filing a complaint
 - ▶ Participating in a complaint

Title IX

- ▶ **“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.”**

▶ -Education Amendments of 1972

Weekly Briefings

- ▶ During the past couple of weeks, all principals, assistant principals and site administrators should have received four (4) Weekly Briefings from the Office of Civil Rights Compliance.
 - ▶ 27589 Student Sexual Harassment Poster
 - ▶ 27587 Anti-Discrimination Poster
 - ▶ 27588 Anti-Discrimination Policies for School & District Publications
 - ▶ 27618 Title IX Mandated Reporter Training for Employees
- ▶ These Weekly Briefings provide the documents necessary for your school to be compliant with Title IX regulations, mandating that school districts publish contact information for the District's Title IX Coordinator along with a statement that the District does not discriminate on the basis of sex in educational programs or activities, admissions, or employment. They also provide information that is required to be shared with all faculty and staff at your school.

Important Changes to Title IX Regulations



Important Changes to Title IX Regulations

- ▶ The new Title IX regulations were issued on May 6, 2020.
- ▶ School districts across the country were expected to become compliant by August 14, 2020.
- ▶ Several lawsuits have been filed by various states, individual school districts, and victim's rights organizations attempting to enjoin the regulations from becoming effective on August 14th for various reasons.
- ▶ Irrespective of this, our District has moved forward to become compliant.

Important Provisions

- ▶ Both parties must now receive written notice of the allegations with sufficient detail for a respondent to respond (i.e. who, when, where, etc.)
- ▶ The parties have the right to select an advisor of their choice to be present at all stages of the investigative process.
 - ▶ May be an attorney and can be in addition to their parent, in the case of a student respondent, and in addition to a union representative in the case of an employee respondent.
- ▶ The parties have the right to submit and review evidence throughout the investigation
- ▶ There is a presumption that the respondent is not responsible during the grievance process u The standard of proof must be stated.

Important Provisions

- ▶ No “single investigator” models.
- ▶ It is very important to note that no disciplinary action can be taken against a respondent in a Title IX sexual harassment case before this entire process (through appeal) is completed.
- ▶ The parties are now given the opportunity to submit written questions for the other parties and witnesses to answer.
- ▶ Both parties have an equal opportunity to appeal on 3 enumerated bases.
- ▶ Records of all sexual harassment reports and investigations be maintained for 7 years.

Office of Civil Rights Compliance
Title IX Sexual Harassment Manual

Procedures Related to Reports of
Sexual Harassment



2020-2021

Title IX Sexual Harassment Manual

When must a school respond?

A school must respond when the school has **actual knowledge*** of sexual harassment; which occurred **within the school's education program or activity** (situations over which the school exercised substantial control); against a **person in the United States**.

*The Final Rule expands "actual knowledge" to include notice to any elementary or secondary school employee.



- ▶ **Sexual Harassment**
- ▶ **Complainant**
- ▶ **Respondent**
- ▶ **Educational Program/Activity**
- ▶ **Actual Knowledge**
- ▶ **Supportive Measures**
- ▶ **Formal Complaint**
- ▶ **Evidence**
- ▶ **Deliberate Indifference**



Sexual Harassment

- ▶ **The new Title IX regulations define Sexual harassment** as conduct on the basis of sex which satisfies one or more of the following three definitions:
- ▶ **Quid pro quo** An employee of the recipient (M-DCPS) conditioning the provision of an aid, benefit, or service of the recipient (M-DCPS) on an individual's participation in unwelcome sexual conduct;
- ▶ Unwelcomed conduct determined by reasonable person to be so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to the recipient's education program or activity; or
- ▶ Any of the following:
 - ▶ **"sexual assault"** as defined by 20 U.S.C. 1092(f)(6)(A)(v)
 - ▶ **"dating violence"** as defined by 34 U.S.C. 12291(a)(10)
 - ▶ **"domestic violence"** as defined by 34 U.S.C. 12291(a)(8)
 - ▶ **"stalking"** as defined in 34 U.S.C. 122919(a)(30).

Complainants and Respondents

- ▶ **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
 - ▶ Includes students, applicants, employees or anyone attempting to access an educational program or activity.
- ▶ **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Educational Program or Activity

- ▶ Schools must address allegations of sexual harassment that occur in “the school’s education program or activity, against a person in the United States.”
 - ▶ “Education program or activity” is broadly defined to include locations, events, or circumstances over which the school exercises **substantial** control.
 - ▶ Examples include school field trips, school dances and sporting events.
 - ▶ The school must have substantial control over both the respondent (i.e., the alleged harasser) **and** the context in which the sexual harassment occurs.

Actual Knowledge

- ▶ **Actual Knowledge** is defined as notice of sexual harassment or allegations of sexual harassment to a District's Title IX Coordinator or any official of the district who has the authority to institute corrective measures on behalf of the recipient or to any employee of an elementary or secondary school. Once a school receives notice, it must respond and take action whether a formal complaint is filed or not.

Supportive Measures

- ▶ **Supportive Measures** are defined as non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the institution's education program or activity without unreasonably burdening the other party, including measures design to protect the safety of all parties or the institutions educational environment, or deter sexual harassment.
- ▶ Supportive Measures include:
 - ▶ Counseling
 - ▶ Extension of deadlines or other course related adjustments,
 - ▶ Modifications of work or class schedules,
 - ▶ Campus escort services,
 - ▶ Mutual restrictions on contact between the parties,
 - ▶ Changes in work locations,
 - ▶ Increased security and monitoring of certain areas of the campus, and other similar measures

Formal Complaint

- ▶ **Formal Complaint** is defined as a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school district investigate the allegations of sexual harassment.

Evidence

- ▶ **Relevant Evidence** is defined as evidence that has value in proving or disproving a fact at issue. Evidence of the Complainant's sexual behavior or predisposition is explicitly not relevant unless it is:
 - ▶ 1) offered to prove that someone other than the Respondent committed the conduct alleged, or
 - ▶ 2) concerns specific incidents of the Respondent's sexual behavior with respect to the Respondent and is offered to prove consent.
- ▶ **Inculpatory Evidence** is evidence that tends to establish a Respondent's responsibility for alleged sexual harassment.
- ▶ **Exculpatory Evidence** is evidence that tends to clear or excuse a Respondent from allegations of sexual harassment.

Deliberate Indifference

- ▶ **Deliberate Indifference** is defined as a response to sexual harassment that is clearly unreasonable considering the known circumstances.



Title IX Team

- ▶ **Title IX Coordinator**
- ▶ **Deputy Title IX Coordinators**
- ▶ **School Site Title IX Liaisons**
- ▶ **Investigators**
- ▶ **Decision-Makers**
- ▶ **Appellate Decision-Makers**
- ▶ **Advisors**



Title IX Team: Title IX Coordinator

The District's **Title IX Coordinator's** role is to oversee efforts to investigate, remedy, stop, and prevent all forms of gender-based harassment, including sexual harassment within educational programs and activities.

Title IX Coordinator Contact Information:

Office of Civil Rights Compliance (CRC)

155 N.E. 15th Street, Suite P104E

Miami, FL 33132

Phone: (305) 995-1580

Fax: (305) 995-2047

Email: crc@dadeschools.net

Website: <https://hrdadeschools.net/civilrights>

Title IX Team

Deputy Title IX Coordinators

Deputy Title IX Coordinators assist the District's Title IX Coordinator with duties such as conducting an initial assessment of allegations and/or complaints, assisting with complaints, notices of allegations and investigation protocols, coordinating the investigation, reviewing the investigative report, assisting the school with implementation and efficacy of supportive measures, and recordkeeping.

Title IX Team

School Site Title IX Liaisons

School site Title Liaisons are Assistant Principals who have been trained and are designated to facilitate the flow of information between the school site and the District's Title IX Office.

Title IX Team

Investigators

Investigators are responsible for investigating formal complaints of sexual-harassment; conducting thorough, reliable and prompt investigations, acting impartially, by avoiding pre-judgment, bias and conflicts of interest; reviewing the applicable School Board Policies and the M-DCPS Title IX Sexual Harassment Manual to ensure that all necessary evidence has been gathered for Decision-Makers; understanding relevant evidence; drafting an investigation report that fairly summarizes all relevant evidence and providing the investigative report to Decision-Makers.

Title IX Team

Decision-Makers

Decision-Makers are responsible for receiving the investigative report and evidence; facilitating a follow up question and answer process for the Complainant and Respondent; using the definitions contained within the Title IX Sexual Harassment Manual and applicable School Board Policies to render a decision based on the information contained in the investigative report.

Appellate Decision-Makers

Appellate Decision-Makers are responsible for understanding the pertinent definitions, the grounds for appeal, responding to appeals in a timely manner, remanding the determination to the Decision-Maker as necessary, and providing the parties with a determination on the appeal.

Title IX Team

Advisors

- ▶ Parties (Complainants and Respondents) have the right to have an advisor of their choice to assist them throughout the process, including attending meetings and/or interviews.
- ▶ An advisor may be an attorney but is not required to be an attorney.
- ▶ If the Complainant or Respondent is a student, the advisor can be a person in addition to their parent or guardian. If the Respondent is an employee, the advisor can be another person in addition to their union representative. An advisor is someone allowed to be present in addition to a parties' parent/guardian or an employee's union representative.



Your Role: School Site Title IX Liaison

School Site Title IX Liaison

- ▶ **School site Title IX Liaisons** are **Assistant Principals** who have been trained and designated to facilitate the flow of information between the **school site** and the **District's Title IX Office**.
 - ▶ It is imperative that we gather the information necessary to determine what type of investigation is required based on the information available.
 - ▶ The information gathered from the Title IX Liaisons will determine whether a matter needs to follow the detailed Title IX procedures required by Federal law or other School Board policies and procedures.



School Site Title IX Liaison

- ▶ The **school site Title IX Liaison** in conjunction with the **Title IX Coordinator** or **Deputy Title IX Coordinator** will assess the initial facts of the report to determine the following:
 - ▶ 1) Whether the conduct alleged meets the definition of sexual harassment? (including whether the School Board had substantial control over both the Respondent *and* the context in which the harassment occurred);
 - ▶ 2) Whether supportive measures should be offered, and if not, document the reasons why such a response was not clearly unreasonable in light of the known circumstances; and
 - ▶ 3) Whether the Complainant wishes to file a formal complaint.

****Always call the M-DCPS Office of Civil Rights Compliance and speak to the Title IX Coordinator or a Deputy Title IX Coordinator regarding any allegation of sexual harassment to determine the appropriate investigation type.**

School Board Policies 5517 & 5517.02

- ▶ School Board Policies 5517 and 5517.02 are the policies that will guide you as a School Site Title IX Liaison in properly handling complaints of discrimination or harassment of and by students.
- ▶ If you closely follow the procedures listed in 5517.02, you will be in a great position to ensure that you have done all that you can to protect your student's safety and civil rights.
- ▶ The first step in the policies for student complaints is to notify the CRC Office within twenty-four (24) hours of receiving the complaint of harassment.

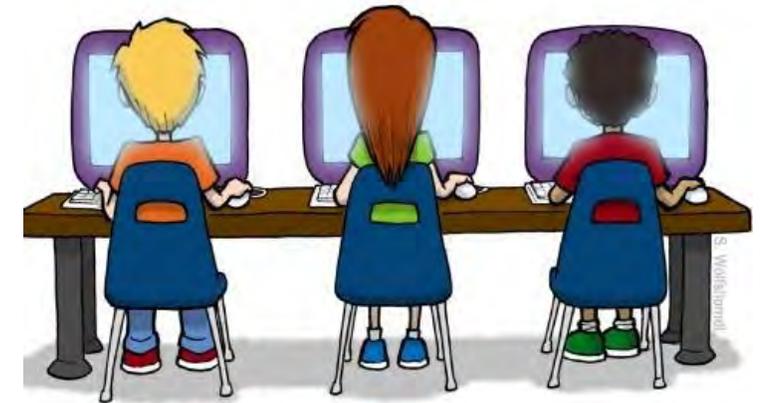
School Site Title IX Liaison

- ▶ When speaking with those involved in allegations of sexual harassment, it is critical that you:
 - ▶ Listen, be present, avoid judgment, and do not blame the complainant for what happened.
 - ▶ Avoid statements that indicate that you do not believe the person you are interviewing during the investigation.
 - ▶ Avoid statements and comments about possible outcomes.



Sexual Harassment & Distance Learning

- ▶ Recent events require M-DCPS to deliver educational content to students purely on virtual and online platforms.
- ▶ It is imperative that all faculty and staff remember their responsibilities to maintain learning environments free from harassment and discrimination.
- ▶ It is important to acknowledge the new environment and take time to update expectations for the virtual environment as it relates to student participation and conduct during virtual class sessions and in-class discussions.
- ▶ Some of the same classroom management strategies employed in the physical classroom and school setting are just as effective in the virtual classroom.
- ▶ It is important to establish clear and reasonable expectations for student engagement in the virtual setting.



Sexual Harassment & Distance Learning

- ▶ Faculty and staff should address discriminatory and harassing behavior immediately.
- ▶ Under no circumstances should discriminatory or harassing behavior be ignored because of the new format of instruction.
- ▶ Just as it would be improper for an instructor to allow a student in a physical classroom setting to direct offensive and harassing behavior at others in class without addressing it, the same expectations must be enforced by instructors in a virtual setting.
- ▶ Whether in a virtual class discussion or online chat boards related to classwork, faculty and staff have a responsibility to address disruptive, offensive, and/or harassing conduct and bring it to the attention of the administration.

Sexual Harassment & Distance Learning

- ▶ If the offending conduct involves offensive or discriminatory behaviors that are sex-based or gender-based, instructors must report the incident to school administrators and the District Title IX Coordinator.
- ▶ Staff should be prepared to provide specific details about the offending conduct and the person(s) involved.



Evaluating Bias and Conflict of Interest

All members of the Title IX Team must ensure the investigation and decision-making processes are free from conflict of interest and bias, as these may be grounds for an appeal on the case. Every member of the Title IX Team should assess for any bias or conflicts of interests before and during the Title IX process.

- ▶ Circumstances that tend to demonstrate bias include:
 - ▶ Direct: an interest directly tied to the parties, their family or career
 - ▶ Indirect: the interest of a group, person or business of one of the parties is or was closely connected (e.g. a friend of a friend, or a previous relationship between those close to a member of the Title IX team or a party)
 - ▶ Financial: monetary gain or loss based on the outcome of the investigation
 - ▶ Non-financial: “favoritism or prejudice resulting from friendship, animosity, or other personal involvement with another person or group”

Evaluating Bias and Conflict of Interest

- ▶ A conflict of interest is when a member of the Title IX Team is in a position to derive personal benefit from actions or decisions made in their official capacity.
- ▶ If a member of the Title IX Team believes they may have a conflict of interest or bias, it should be brought to the attention of the Title IX Coordinator immediately.
- ▶ Should any member of the Title IX Team believe or question whether they may have a bias or conflict of interest on a given case, they should consult with the Title IX Coordinator immediately (i.e. before taking any action on a case if possible.)



Questions



Contact Information

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