

New Title IX Regulations

Training for Title IX Coordinators, Investigators and Decision-Makers
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“ 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.”

Title IX of the Education Amendments Act of 1972

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Today

- New Title IX Regs**
Summary of the new regs and changes.
- Investigation Process**
Description of the stages of investigation, from the initial complaint to the determination regarding responsibility.
- Roles in the Investigation Process**
Description of the role of the Investigator, Decision-Maker and Title IX Coordinator.
- Decision-Makers and Investigators**
Additional information required for Decision-Makers and Investigators
- Rights of Investigation Participants**
Information about rights guaranteed for complainants, respondents and witnesses.
- Post-Determination Issues and Informal Resolution**
Details of everything that comes after the determination regarding responsibility.

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Summary of Changes

- No changes to existing regulations related to athletic participation, employment, or single-sex education
- Defined sexual harassment in regulation for the first time.
- Provides due process rights to accusers and accused persons in sexual harassment investigation and decision-making:
- Provides terminology and definitions for use in Title IX complaints
- Requires response when district has "actual knowledge" of sexual harassment
- Specific roles of Title IX Coordinator, Investigator, Decision-Maker and the steps of the investigation process
- Mandates provision of supportive measures during investigation process
- Requirements of Determination of Responsibility
- Prohibits retaliation

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Required Training

- Training is required for all Investigators and Decision-Makers
- Training materials must be available for the public:
 - From Regulations:
 - All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.
 - Today's materials will have to be posted.
- If you need to arrange for additional training for your district, please contact KASB Legal.

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Sexual Harassment Definition

Sexual harassment shall include conduct on the basis of sex involving one or more of the following:

- (1) a district employee conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcomed sexual conduct;
 - Quid pro Quo
- (2) unwelcomed conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's educational program or activity; or
 - Hostile Environment
- (3) sexual assault, dating violence, domestic violence, or stalking.
 - VAWA definitions

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Quid pro Quo

- a district employee conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcomed sexual conduct

Hostile Environment

- Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to work/education.

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VAWA “Big Four”

Sexual Assault

an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Dating Violence

violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.

Domestic Violence

includes crimes of violence committed by a person who is a current or former spouse, partner, person with whom the victim shares a child, or who is or has cohabited with the victim as a spouse or partner, by a person similarly situated to a spouse of the victim under Kansas or applicable federal law, or by any other person against an adult or youth victim having protection from such person’s acts by Kansas or applicable federal law.

Stalking

engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress.

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Other Definitions

Complainant: An individual alleged to be the victim of sexual harassment
 Not necessarily the individual who reports or who files formal complaint

Respondent: An individual alleged to be the perpetrator of sexual harassment

Formal Complaint: A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting the school investigate the allegation of sexual harassment

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome, to the other party while designed to ensure equal educational access, protect safety or deter sexual harassment.

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Supportive Measures

- The district will treat the complainant and respondent equitably by offering supportive measures.
- These non-disciplinary and non-punitive measures will be offered as appropriate, as reasonably available, and without cost to the complainant or the respondent.
- Supportive measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party.
- "Supportive Measures" shall include, but not be limited to, measures designed to protect the safety of all parties, to protect the district's educational environment, or to deter sexual harassment.
- The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.



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Pending Court Cases

- Since these new regulations were announced in May, several lawsuits have been filed, and requests for a stay have been made over the past months – none successful yet.
- Effective August 14 unless a court issues injunction.



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Questions?

TO PROVIDE FEEDBACK ABOUT TODAY'S TRAINING, PLEASE COMPLETE THE EVALUATION:
[HTTPS://KASB.ORG/TITLE_IX_20200806](https://kasb.org/title_ix_20200806)

IF YOU HAVE ADDITIONAL QUESTIONS, PLEASE SEND TO:
LEGAL@KASB.ORG
1-800-432-2471



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