

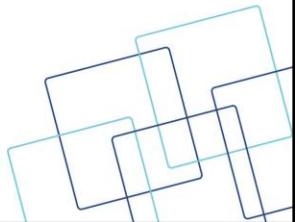


# Implementing the New Title IX Regulations

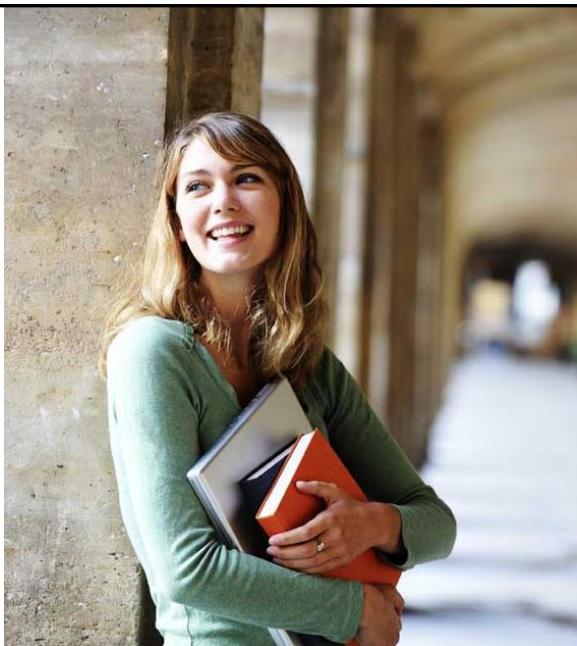
**Presented by: Stephanie M. White**

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
Office of Educational Equity

August 25, 2020



Lozano Smith



## What We Will Cover

- New Title IX Regulations – Overview
- The Roles and Responsibilities of District Administrators and Employees
- Training, Notice, and Posting Requirements
- Steps for Assessing And Processing Complaints Under Title IX
- Informal Resolution
- Appeal Rights
- Record Keeping Requirements

# Title IX and the New Regulations

## The Plain Language of 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.”*

20 U.S.C. § 1681 *et seq.*

## What Does Title IX Cover?

1. Education Programs or Activities
2. Sports
3. Employment
4. Equal Access to Facilities
5. Admissions and Recruitment
6. Sexual Harassment\*

(34 C.F.R. Part 106)

\*New regulations that have the full force and effect of law



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## Why Title IX is Important - Potential Impact of Sexual Misconduct on Students and Employees



- Shame, humiliation, stress, anxiety, depression, loss of sleep
- Impaired learning/poor work performance
- Absenteeism/turnover
- Culture of discrimination
- Civil liability (monetary damages, attorney fees)
- Negative media attention and public outcry
- OCR Resolution Agreement
- Loss of federal funds

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## Required Response to Sexual Harassment

"A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances."

- Section 106.44 of the 2020 Final Rule (emphasis added)

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## New Definitions

### Actual Knowledge (K-12)

- When *any employee* has notice of sexual harassment or allegations 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 that the recipient (district) investigate the allegation

### Complainant

- An individual who is alleged to be the *victim of the conduct* that could constitute sexual harassment

### Respondent

- An individual who has been reported to be the *perpetrator of conduct* that could constitute sexual harassment

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## New Definitions – Sexual Harassment

**Sexual Harassment** is conduct on the basis of sex that satisfies one or more of the following:

1. An **employee** conditioning the provision of an aid, benefit, or service of the district on the complainant's participation in unwelcome sexual conduct ;
2. Unwelcome conduct determined by a reasonable person to be **so severe, pervasive and objectively offensive** that it effectively denies a person equal access to the district's education program or activity; or
3. "**Sexual assault**" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "**dating violence**" as defined in 34 U.S.C. 12291(a)(10), "**domestic violence**" as defined in 34 U.S.C. 12291(a)(8), or "**stalking**" as defined in 34 U.S.C. 12291(a)(30).



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## New Definitions – Sexual Harassment

### Sexual assault:

- Actual or intentional physical sexual acts against a person **without consent** that may include:
  - Rape, rape and seduction, sodomy, lewd and lascivious acts, oral copulation, sexual penetration, sexual battery, and sexual assault.
- "No consent" may include:
  - Force, duress, violence, fear of immediate harm, inability to consent (including statutory rape).

### 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.

(34 U.S.C. 12291(a)(10).)



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## New Definitions – Sexual Harassment

### Domestic violence:

- Felony or misdemeanor crimes of violence committed by:
  - a current or former spouse or intimate partner of the complainant,
  - a person with whom the complainant shares a child in common,
  - a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner,
  - a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies
  - Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws.

(34 U.S.C. 12291(a)(8).)

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## New Definitions – Sexual Harassment

### Stalking:

- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for their safety or the safety of others; or
  - Suffer substantial emotional distress.

(34 U.S.C. 12291(a)(30).)



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## Title IX Jurisdiction

Allegations of sexual harassment fall under Title IX when:

- The conduct occurs against a person in the United States;
- The conduct occurs in an education program or activity over which the district exercised substantial control over both:
  - 1) the respondent and
  - 2) the context in which the sexual harassment occurs; and
- The complainant was participating/attempting to participate in the educational program or activity at the time the complaint was filed.



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# The Roles and Responsibilities of District Administrators and Employees

## Title IX Coordinator

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## Responsibilities of the Title IX Coordinator Include:

- Provides or coordinates Title IX trainings and preventative measures
- Offers supportive measure to complainant and respondent
- Explains the grievance/complaint process to the complainant
- Receives all complaints and oversees the complaint/grievance or informal resolution process
- May sometimes investigate complaints, but is never the decision-maker
- Determines mandatory and discretionary dismissals
- Evaluates corrective actions
- Addresses patterns or problems

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## Responsibilities of the Investigator Include:

- Administers a fair investigation of formal complaints
  - Interviews parties and witnesses
  - Reviews evidence
  - Provides parties the opportunity to inspect, review and respond to all evidence gathered, and considers their responses
  - Creates an investigative report that summarizes relevant evidence
- Does not make a determination of responsibility
- Must be trained
- Must be impartial, unbiased, and free for any conflicts of interest

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## Responsibilities of the Decision-Maker Include:

- Reviews the investigation report, but does not investigate
- Gives parties the opportunity to submit written relevant questions for the other party/witnesses, and asks those questions they deem relevant or provides an explanation as to why a question was deemed irrelevant
- Makes a determination about responsibility
- Prepares the written determination that is issued to each party
- May recommends sanctions and/or corrective actions

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## **Responsibilities of the Informal Resolution Officer Include:**

- Facilitates the informal resolution process
- Trained, unbiased and without conflict
- May be the Title IX Coordinator or another unbiased party
- Verifies a complaint meets the criteria for informal resolution, and that the parties have given voluntary, written consent
- Ensures the parties know their rights, including their right to withdraw at any time prior to a resolution being reached

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## **Responsibilities of the Appeals Officer Include:**

- Evaluates any appeal request made by the complainant or respondent
- Makes a decision on the appeal and issues a written decision to each party that states the decision and rational
- Must be unbiased and without conflict
- Cannot be the Title IX Coordinator, investigator, or decision-maker

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## Responsibilities of All Employees Include:



- Report to the District's Title IX Coordinator, as well as any additional designated individuals (school site administrators), any known claims of potential sexual harassment.
- All employees should be trained on how to identify potential sexual harassment issues and report it.

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## Title IX and Overlapping Obligations



- Contacting Law Enforcement
- Mandated Reporter Duties
  - “Reasonable suspicion” of child abuse or neglect

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## Criminal Investigation

1. A police investigation does *not* relieve a district of its obligations under Title IX or state laws
2. Gathering evidence
  - A brief delay is permissible, but it is not good cause to delay sending the written notice of the investigation
  - Criminal reports may be useful for fact gathering
  - Coordinate with local law enforcement

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## Training, Notice and Posting Requirements

## Training Requirements

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must be trained on, at least:

- The definition of sexual harassment in § 106.30,
- The scope of the district's education program or activity,
- How to conduct an investigation and the complaint/grievance process, including appeals (and hearings, if applicable), and the informal resolution processes, as applicable,
- How to serve impartially, including by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias,
- Any technology they will be required to use to fulfill their duties, and
- Deciding issues of relevance to fulfill the duties of their roles.

\*Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.

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## Title IX Notice/Posting Requirements

- Notice of Title IX rights must be given to all employees, students and applicants
- Must be posted in a ***prominent*** location on the district's ***website***, and In each ***handbook*** or catalogue that it makes available to persons entitled to notification
- Training materials must be posted online – 7 years



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## Title IX Notices Must Include:

- Contact information for the Title IX Coordinator.
- A statement that the district does not discriminate on the basis of sex in the education program or activity that it operates, including in employment, and that it is required by Title IX and specifically Section 106.8(b) not to discriminate in such a manner.
- That inquiries about the application of Title IX and Section 106(b) may be referred to the Title IX Coordinator, to the Assistant Secretary of Education, or both.
- The district's complaint/grievance procedures and process, including:
  - how to report or file a complaint of sex discrimination,
  - how to report or file a complaint of sexual harassment, and
  - how the district will respond.

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## Title IX Policies

**Complaint/grievance procedures must:**

- Provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited under Title IX, and
- Comply with the requirements of Section 106.45.



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## Title IX Policies Must (Per Section 106.45):

- Treat complainants and respondents equitably
- Require an objective evaluation of all relevant evidence
- Require that any individual involved as Title IX Coordinator, investigator, decision-maker, or informal resolution officer not have a conflict of interest or bias for or against complainants or respondents
- Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process
- Include reasonably prompt time frames for conclusion of the complaint/grievance process



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## Title IX Policies Must (Per Section 106.45):

- Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the district may implement following any determination of responsibility
- State the standard of evidence to be used to determine responsibility (i.e., preponderance of the evidence standard)
- Describe appeal procedures
- Describe supportive measures available to both parties
- Protect information protected under a legally recognized privilege (unless there is a waiver)



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## The New Regulations Are NOT Retroactive



- The new regulations do NOT apply to any alleged sexual harassment that occurred prior to August 14, 2020
- The Rule governs how schools must respond to sexual harassment that allegedly occurs ON or AFTER August 14, 2020

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## Retaliation Prohibitions

- Retaliation is prohibited against anyone who has attempted to participate in the Title IX process.
- The district cannot use the student conduct process as a way to avoid the Title IX complaint/grievance process.
- Retaliation complaints must be filed under the same complaint/grievance process.
- The district must keep the identities of the all involved parties confidential, unless disclosure is required by law or necessary to carry out Title IX proceedings.
- Exercising a First Amendment right is not retaliation.
- Charging an individual with making a false statement in bad faith during a Title IX process is not retaliation.

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# Steps for Assessing and Processing Complaints Under Title IX

## 10 Steps for Effective Title IX Investigations

*Step 1*  
Receiving and Assessing Complaints



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## Receiving Complaints (In General)

### TYPES OF COMPLAINANTS

- Student
- Parent
- Employee
- Member of Public
- Anonymous Person

### TYPES OF COMPLAINTS

- Verbal
- Written
- No Complaint (Rumor or Observation)



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## Involved Parties May Include...

- Student-on-student
- Employee-on-student
- Employee-on-employee
- Student-on-employee
- Same-sex parties

What about 3<sup>rd</sup> parties?



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## Receiving a Complaint

### Formal v. Informal Complaints

- “Don’t tell anyone, but...”
- “Student X is a bully. He threw me into the lockers today because of my outfit.”
- “My teacher gave me an unfair grade because she hates me.”

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## Receiving a Complaint



- Notify the Title IX Coordinator
- Assess whether a CPS report should be filed (continue to reassess)
- Title IX Coordinator should promptly schedule a meeting with the victim

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## Contact the Victim/Complainant

- Conduct initial discussion with complainant/victim to better understand the complaint and if it rises to the level of sexual harassment under Title IX
- Discuss options for supportive measures (discussed in Step 2)
- Explain options for filing a formal complaint with the District

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## Initial Discussion With Victim/Complainant

- Ask open-ended questions
- Get complaint in writing or confirm allegations in writing if not already received
- Review policy against retaliation
- Do not promise confidentiality
- Determine whether matter can be resolved informally
- Listen and “hear” the concern



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## Do You Have a “Formal” Title IX Complaint?

- *Formal Complaint:* Document filed by a complainant (who is also the victim or the victim’s parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation.
- If no formal complaint is filed by the complainant, the Title IX Coordinator should assess whether to independently initiate a complaint based on a threat to safety.

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## Does the Complaint/Allegations Trigger a Title IX Obligation?

1. Does the alleged conduct, if true, constitute sexual harassment under Title IX?
2. Is there jurisdiction over the conduct?

\*If “no” to any of the above, any formal complaint must be dismissed.

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## 1) If the Alleged Conduct is True, Does it Rise to the Level of Sexual Harassment Under Title IX?

- Any employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct
- Any unwelcome conduct that a reasonable person would find so severe, pervasive **and** objectively offensive that it denies a person equal education access; OR
- Any instance of sexual assault, dating violence, domestic violence or stalking
- As defined in the Clery Act or Violence Against Women Act



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## 2) Is there Title IX Jurisdiction Over the Conduct?

1. Education Program or Activity
  - a) If the school exercises substantial control over the respondent; and
  - b) The school exercises substantial control over the context in which the sexual harassment occurred.
2. Must be within the United States.
3. At the time of filing a formal complaint, complainant must be participating/attempting to participate in the educational program.



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## What if the Complainant says “Do Nothing”?

- The Title IX Coordinator must inform them of their options
  - This includes supportive measures without filing a formal complaint
- The Title IX Coordinator can sign a formal complaint on the complainant’s behalf
  - Assess the conduct!
  - If NOT filing a formal complaint would be deliberately indifferent, the Title IX Coordinator has the discretion to sign a formal complaint on the complainant’s behalf



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## Discretionary Dismissals

Complaints *MAY* be dismiss formal complaints, or any allegations there in if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the district; or,
- Specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.



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## Dismissals (Mandatory and Discretionary)

- The decision to dismiss a complaint should be made in consultation with the Title IX Coordinator.
- Notice of dismissal must be issued to both parties in writing
- Parties must be informed of their right to appeal the dismissal on the basis of:
  1. Procedural irregularity;
  2. New evidence that was not reasonably available earlier; or
  3. Involved personnel had a conflict of interest or bias.

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Even if You Determine Title IX Is NOT Triggered or the Complaint Should Be Dismissed, Do NOT Stop There!

- *Consider whether the alleged conduct may otherwise violate district policy or employee/student conduct standards*



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## *Step 2*

### Supportive Measures

## 10 Steps for Effective Title IX Investigations



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## Urgent Considerations



- Is there a threat of imminent harm to others?
- Was a crime potentially committed?
- Have mandated reporting obligations been triggered?

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## Supportive Measures

“A non-disciplinary, non-punitive individualized services offered [...] to the complainant or respondent before and after the filing of a formal complaint or where no formal complaint has been filed.”

- Designed to restore or preserve equal access to the educational program without unreasonably burdening either party.
- Should be determine on a case-by-case basis
- Cannot be retaliatory



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## Supportive Measures

Examples:

- Counseling
- Medical services
- Academic support (e.g., extension of deadlines or other course adjustments)
- No contact orders
- Increased security
- Changed schedules (e.g., modification f work or class schedule)
- Leaves of absences (employees)
- Emergency removals in compliance with Title IX

*Document the implemented supportive measures, but don't stop there!*



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## Emergency Removals (Students)

School districts are prohibited from disciplining a student for alleged sexual harassment until a full Title IX investigation has been completed.

### EXCEPTION: An Emergency Removal

- Respondent must be an immediate threat to the physical health or safety of any student or individual;
- The immediate threat must arise from the allegations of sexual harassment;
- Respondent is provided with notice and an opportunity to challenge the decision immediately after removal.



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## 10 Steps for Effective Title IX Investigations

*Step 3*  
Initiate an Investigation into the Formal Complaint or Engage in Informal Resolution Process



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## Policies and Procedures for Investigating Title IX Complaints

- BP/AR 4119.11- Sexual Harassment (Employee)
- AR 4119.12\* – Title IX Sexual Harassment Complaint Procedures (Employee)
- BP/AR 5145.7 – Sexual Harassment (Students)
- AR 5145.71\* - Title IX Sexual Harassment Complaint Procedures (Student)

\*New District policies

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## Investigation Timelines

- 
- Title IX - “reasonably prompt time frame”
  - District policies – 60 days

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## Send Written Notice of Investigation

Send “notice” letters to both the complainant and the respondent



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## Notice of Investigation

1. Identify investigation process, including informal resolution process;
2. Identify allegations with sufficient details;
3. Include a statement that respondent is presumed not responsible and that a determination is made at the conclusion of the process;
4. Explain that they may have an advisor of their choice inspect and review the evidence; and
5. Identify the District’s code of conduct that prohibits knowingly making false statements or submitting false information.
6. Do not restrict either party’s ability to discuss the allegations under investigation.

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## Informal Resolution

- Informal resolution is a process that does not involve a full investigation and adjudication.
- It can only be offered when:
  - A formal complaint is filed;
  - The school district has sent a written notice about the allegations and the informal resolution process;
  - A written determination has not yet been made; and
- Both parties have provided voluntary, written consent to the process.
- Either party can withdraw from the informal resolution process at any time, and should be notified of this right.
- Cannot be used for allegations where an employee is alleged to have sexually harassed a student.

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## 10 Steps for Effective Title IX Investigations

*Step 4*  
Gather, Review, and Preserve Evidence;  
Conduct Witness Interviews



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## Title IX Evidence Requirements

- District has the burden of gathering evidence.
- District cannot access or use a party's medical, psychological or other similar records unless they obtain the party's voluntary, written consent.
- District cannot restrict parties from discussing allegations or gathering and presenting relevant evidence.
- District must provide an opportunity for parties to present fact and expert witnesses and other exculpatory or inculpatory evidence.

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## Reviewing and Preserving Evidence

### Documentation & Evidence

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>▪ Emails</li><li>▪ Phone records</li><li>▪ Attendance records</li><li>▪ Travel logs</li><li>▪ Security records</li><li>▪ Computer records/files</li><li>▪ Complaint</li></ul> | <ul style="list-style-type: none"><li>▪ Internet usage and websites visited</li><li>▪ Voicemail messages</li><li>▪ Pictures</li><li>▪ Audio/Video</li><li>▪ Credit Card Receipts</li><li>▪ Observing Locations</li><li>▪ Collective Bargaining Agreement</li></ul> |
|---|--|

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## SB 178 and the Penal Code



SB 178 instituted a clear, uniform **warrant rule** for electronic information, including data from:

- personal electronic devices
- emails
- digital documents
- text messages
- metadata
- location information



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## SB 178 Exceptions

When you may search:

- Pursuant to warrant or wiretap order
- With specific **consent** of authorized possessor of device
- With specific **consent** of owner of device (only when device has been reported lost or stolen)
- In perceived **emergency** to prevent death or serious physical injury
- Device seems to be lost, stolen, or abandoned, and only to identify, verify, or contact device's owner or authorized possessor

All aspects of search must be reasonable



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## Child Pornography

- Call School Resource Officer, Police Department, or Safety & Security Department right away before touching anything
- Third party witness
- Track chain of custody

**Warning:** It is a state and federal crime to possess and/or distribute child pornography. There's no exception for school administrators or investigators.

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## Witness Interviews

- Start with an outline of questions, but be flexible!
- Use the outline as more of a roadmap for issues you need to touch on with each witness.
- If there are a series of incidents, consider a linear roadmap.
- Keep in mind big picture goals.
- At the end, ask: Is there anything else?
- *If possible, have a second administrator in the room*

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## Trauma-Informed Approach

- Do not victim-blame.
- Choose a comfortable setting that is not triggering.
- Build rapport.
- Ask difficult questions with care - explain why you're asking the question.
- Allow the witness to freely speak and then ask follow up questions.

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## Interview Questions

- “Did you tell anyone about what happened to you?”
- “Tell me how that made you feel.”
- “Did you ever feel like this before?”
- “What was your thought process at that time?”
- “I’m asking you this to try to understand...”

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## Credibility Determinations

1. Demeanor;
2. Inherent plausibility;
3. Motive to lie;
4. Corroboration, or lack thereof;
5. Past record of conduct;
6. Opportunity and capacity to observe/actual knowledge;
7. Consistent or inconsistent statements;
8. Reputation for veracity or deceit; and
9. Bias.



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## Common Questions and Issues

- What if the witness is under age?
- What if the witness is biased or lies?
- Do all witnesses get a union representative or support person?
- What if the witness refuses to be interviewed or wants their identity to remain confidential?
- What if the police are investigating?

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## Recording the Interview

- Take detailed notes or have a second administrator or confidential employee involved to take notes
- Audio recordings: Pros and Cons
- Witness statement summaries



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## Confidentiality & Preserving the Integrity of the Investigation

- Confidentiality cannot be promised.
- All evidence will be shared with the complainant/victim and the respondent
  - Both parties will have an equal opportunity to inspect and review any evidence that is directly related to the allegations

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## Lybarger/Spielbauer Warning/Rights



- Fifth Amendment Protection Against Self-Incrimination
- Spielbauer/Lybarger Warning – Public employees may be compelled to answer potentially incriminating questions about their job performance as long as they are not required to waive the constitutional protections.

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## Fifth Amendment Rights for Students

- School cannot use student's silence during an investigation against them in a disciplinary proceeding as an admission of guilt.
- However, you may inform the student of the impact of withholding their side of the story.

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## 10 Steps for Effective Title IX Investigations

Step 5

### Review of Evidence by the Parties

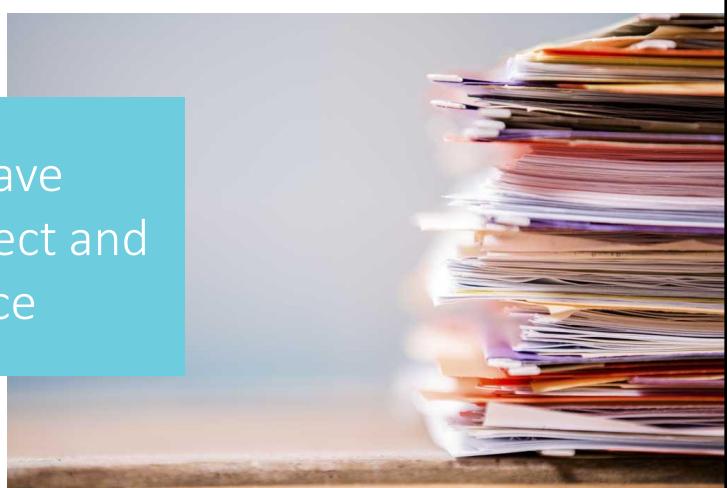


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### Meaningful Access to Information

\*Both parties have  
opportunity to inspect and  
review evidence



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## Review of Evidence By the Parties

- Send the parties any evidence directly related to the allegations raised in the formal complaint,
  - Includes evidence the district does not intend to rely upon in reaching its decision regarding responsibility
  - Use of a draft investigation report or report of evidence
- Must be done prior to the completion of the investigation report
- Parties should be given at least 10 days to respond to the evidence, which must be considered by the investigator

\*The investigator should work with the Title IX Coordinator to securely transmit the evidence to the parties, and to assess whether redactions may be appropriate.

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## 10 Steps for Effective Title IX Investigations

### Step 6 Prepare the Investigation Report



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## Investigation Report

- The final investigation report should be prepared by the investigator and must summarize relevant evidence
- Parties must be offered the opportunity to provide a written response to the investigation report
- Must be sent to the parties at least 10 days before a written determination regarding responsibility is issued by the decision-maker.

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## Investigation Report (Recommended Content)

- Identify the date the investigation commenced
  - Identify the investigator
  - Identify interim measures offered to and accepted by the parties
  - Summary of the investigation process
  - Identify the legal standard of review applied to the review of evidence/applicable policies
  - Identify number of/identity of witnesses
  - Summary of evidence – documents and witness statements
- \* You may be asked to make recommended, non-binding findings of fact and responsibility under District policies and codes of conduct.

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## 10 Steps for Effective Title IX Investigations

Step 7

### Decision-Maker Makes a Determination



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### Submission of Written Questions

- The decision-maker must allow parties the opportunity to submit written, relevant questions that they want to ask any other party or witness.
- Once the parties are provided with the answers, they are permitted to submit additional, limited follow-up questions from each party.
- Decision-maker determines relevancy, or explains why questions were deemed irrelevant
- Complainant's sexual history is irrelevant unless offered to prove someone else committed the conduct or for proof of consent

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## Written Determination Regarding Responsibility – Issued by the Decision-Maker

- **Identification of the allegations** potentially constituting sexual harassment
- **A description of the procedural steps** taken from formal complaint through the determination of responsibility.
- **Findings of Fact** supporting the determination.
- **Conclusions** regarding the application of the recipient's code of conduct to the facts.

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## Written Determination Regarding Responsibility – Issued by the Decision Maker (Cont.)

- **Rational** for each finding and conclusion, including a **determination of responsibility** for each allegation.
- Statement of **potential disciplinary sanctions**.
- **Appeal rights**.

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## 10 Steps for Effective Title IX Investigations

### Step 8 Appeal Rights



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### Appeal Rights for Both Parties at the District

Parties may appeal the written determination on the following bases:

1. Procedural irregularity;
2. New evidence that was not reasonably available earlier;
3. Title IX personnel had a conflict of interest or bias.

\*Students/employees may also be afforded the right to file a complaint or an appeal with federal and/or state agencies (e.g., OCR, CDE, DFEH, EEOC).

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## 10 Steps for Effective Title IX Investigations

### Step 9 Record Keeping Requirements



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### Recordkeeping – Records Must Be Maintained for 7 Years

#### Formal Title IX Complaints:

- Any investigation of sexual harassment, including determinations regarding responsibility, recordings or transcripts of involved hearings, disciplinary sanctions imposed on the respondent, and remedies provided to the complainant
- Any appeal and the result therefrom
- Any informal resolution and the result therefrom

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## Recordkeeping – Records Must Be Maintained for 7 Years

Actual Knowledge But No Formal Title IX Complaint:

- Documentation of all actions, including any supportive measures implemented to demonstrate the response was not deliberately indifferent. Particular detail should be included if supportive measures are not offered to a complainant

Training Materials:

- All training materials for Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process

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## 10 Steps for Effective Title IX Investigations

*Step 10*  
Reflect



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## Loose Ends

- Is a Commission on Teacher Credentialing (CTC) report required?
- Have all mandated reporter duties have been satisfied if child abuse or neglect is at issue?
- What can be learned? Any evidence of a systemic issue?
- Would staff benefit from further training?
- Be proactive.

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## Questions



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## Presenter

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#### AT LOZANO SMITH

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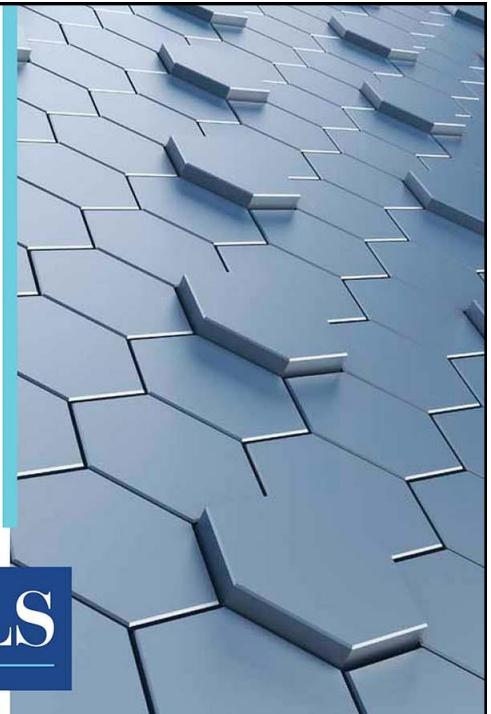
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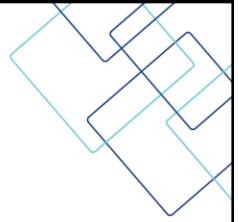
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