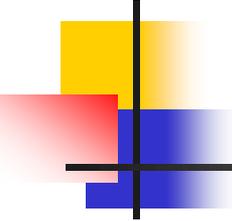


# **Title IX Coordinator Training**

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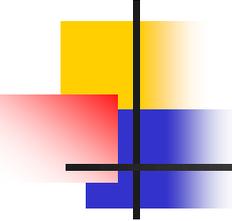
**JEVS Compliance 2020**



## Title IX

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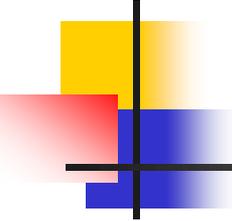
- Title IX of the Education Amendments of 1972 prohibits discrimination – by employees, students, and third parties – on the basis of sex, including sexual harassment and sexual violence.
- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”



## Scope of Title IX

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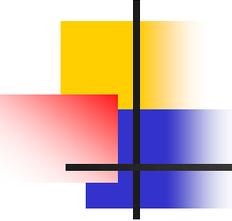
- Title IX applies to institutions that receive federal financial assistance from ED, including state and local educational agencies.
- Educational programs and activities that receive ED funds must operate in a nondiscriminatory manner.
- Some key issue areas in which recipients have Title IX obligations are: recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; treatment of pregnant and parenting students; discipline; single-sex education; and employment.
- Also, a recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title IX.



## OCR's Enforcement of Title IX

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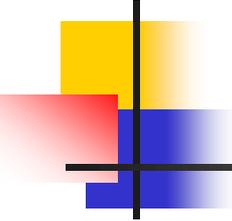
- OCR vigorously enforces Title IX to ensure that institutions that receive federal financial assistance from ED comply with the law.
- OCR evaluates, investigates, and resolves complaints alleging sex discrimination. OCR also conducts proactive investigations, called compliance reviews, to examine potential systemic violations based on sources of information other than complaints.
- OCR Assistance:
  - [OCR@ed.gov](mailto:OCR@ed.gov) or 800-421-3481, TDD 800-877-8339.



## Final Regulations 2020

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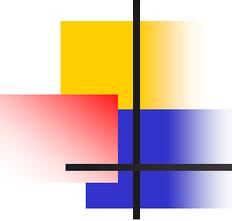
- Watch and review the OCR Webinar: Title IX Regulations Addressing Sexual Harassment:
  - [https://www.youtube.com/watch?feature=youtu.be&utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term=&v=TdfT5R8ibm4](https://www.youtube.com/watch?feature=youtu.be&utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=&v=TdfT5R8ibm4)



## Title IX Coordinator

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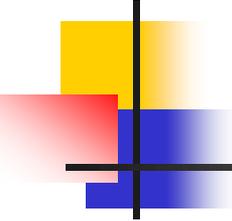
- Schools must respond to a complaint when the Title IX coordinator or any school official has the authority to take corrective action is notified.
- The Title IX Coordinator must reach out to the complainant and confidentially discuss available options.
- The coordinator's contact information should be listed on the website, handbook, catalog, etc.



## Supporting Measures

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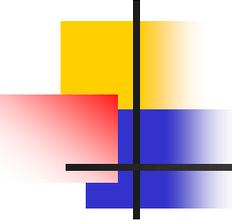
- The Title IX coordinator informs the victim of the availability of supporting measures, the right to file a formal complaint, and how to do so.
- Supporting measures are free, individualized services to support students and restore educational availability, but cannot be disciplinary to the respondent.



## Grievance Process

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- Key details of alleged incident:
  - Who was involved
  - Date and location if known
  - Alleged misconduct
- The respondent is presumed not responsible and can only be found responsible after process concludes.
- Every formal complaint must be investigated



# Mandatory and Discretionary Dismissals

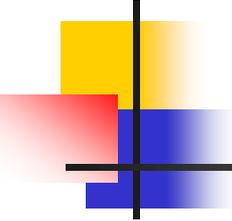
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## ■ Mandatory Dismissals

- That does not describe conduct that meets the definition of sexual harassment
- Alleged sexual harassment that did not occur in school's education program or activity
- Did not occur in the US
- Can address misconduct that violates state law or schools own code of conduct even if not sexual harassment

## ■ Discretionary Dismissals

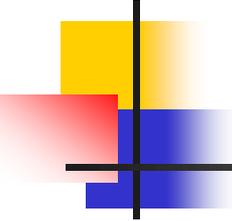
- If complainant notifies in writing that wishes to withdraw complaint or some of allegations
  - If respondent is no longer enrolled or employed by the school
  - Specific circumstances prevent school from gathering evidence to reach a conclusion
  - Has option to proceed if dismissal is not appropriate
- 
- Both parties have the right to appeal dismissal decision



## Protections to Both Parties

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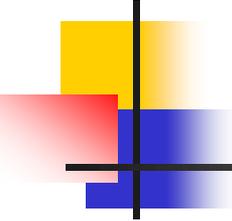
- Equal opportunity to parties to produce evidence and witnesses
- Same opportunities to have others present, including advisor of choice
- Provide written notice of date, time, location, participants, and purpose of meetings with sufficient time to both parties
- Equal opportunities to inspect and review evidence.
  - Documents
  - Notes from interviews
  - Other evidence
  - Includes evidence the school doesn't think it will use
  - Can be sent in electronic format or hard copy
  - Must be available at hearing



# Hearing

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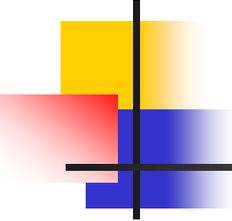
- Must hold live hearing
- Advisors must be allowed to cross examine with questions and follow up questions, including challenging credibility
- No party can personally question anyone
- Cross examination questions must be relevant and decision makers decide before party has to answer
- If any party shows up without an advisor – the school chooses an advisor solely for cross examination
- Hearing must be recorded



# Appeal

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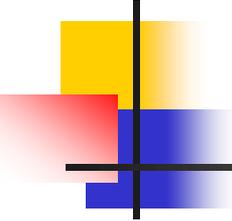
- Must offer appeal for:
  - Procedural irregularity affected outcome
  - New evidence not available
  - Conflict of interest on title ix coordinator, investigator, decision maker and affected outcome
  - Can offer additional grounds so long as they are equal
- Recipient has to notify parties in writing and implement appeal procedures equally
- Person that decides the appeal cannot be the same person deciding responsibility, investigator, or title ix coordinator
- After considering written statements, decision maker has to make decision and send to parties simultaneously
- Determination on responsibility becomes final



## Informal Resolution

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- School has the option to offer informal resolution
- Can never be for employee harassing a student
- Mediation to resolve other issues:
  - Can only be attempted if both parties are entering voluntarily
  - Cannot force any party or ahead of time
  - Must provide facilitator free of conflict of interest or bias
- Provide complaints and respondents notice of allegations, rights, information about whether informal process is confidential, can withdraw from informal at any time before agreement reached



# Other Issues

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- Record keeping duties
  - 7 years
    - Records of investigation and determination/ appeal/ audio visual/ remedies
    - Appeal records
    - Informal resolution process
    - Retain all materials used to train coordinators, investigators, decision makers; have to be posted on website
    - Records of supportive measures
- Retaliation
  - No person allowed to retaliate
  - If believed to be, can file complaint with school and school must have procedures in place for prompt resolution
  - Require school to keep identities of parties and witnesses confidential unless required under other laws
  - It is not retaliation to punish someone who makes false statements
- Not intended to regulate the content of speech
  - OCR can never require school to violate 1st amendment
  - Cannot restrict free speech rights