


Session 2: Receiving, Managing, and Informally Resolving Title IX Complaints


Getting it Right from the First
Report

OSPA Summer Retreat
July 28-29, 2025



Presented By

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1

About ECR Solutions

- Most educational administrators lack the time, specialized expertise, and staff to fully meet their institutions' civil rights obligations.
- ECR Solutions PLLC fills those gaps through holistic legal guidance, strategic consulting partnerships, and interim or external civil rights staffing.
- This support helps institutions manage legal risk, reduce the likelihood of public scrutiny, and uphold the rights of their communities.



WELCOME

Getting Education Civil Rights Right, The First Time

Expert services to help you understand civil rights laws and industry standards for K-12, higher ed, and beyond



2

Reminders!

- This is not legal advice; contact me for specific help
- Training materials must be posted online
- Keep it hypothetical
- Ask questions
- Have fun!



3

Work Alike Groups

- You should be seated with others **who serve in similar roles to you**
 - ✓ Title IX Coordinators/Deputy Coordinators (Intake & Coordination)
 - ✓ Investigators
 - ✓ Decision-Maker (Initial Decision)
 - ✓ Appeals Decision-Maker
 - ✓ Informal Resolution Facilitator
 - ✓ Other
- Each breakout group will examine the requirements covered **through the lens of their specific responsibilities**, allowing every attendee to understand how their role connects to the broader Title IX framework



4

The Process

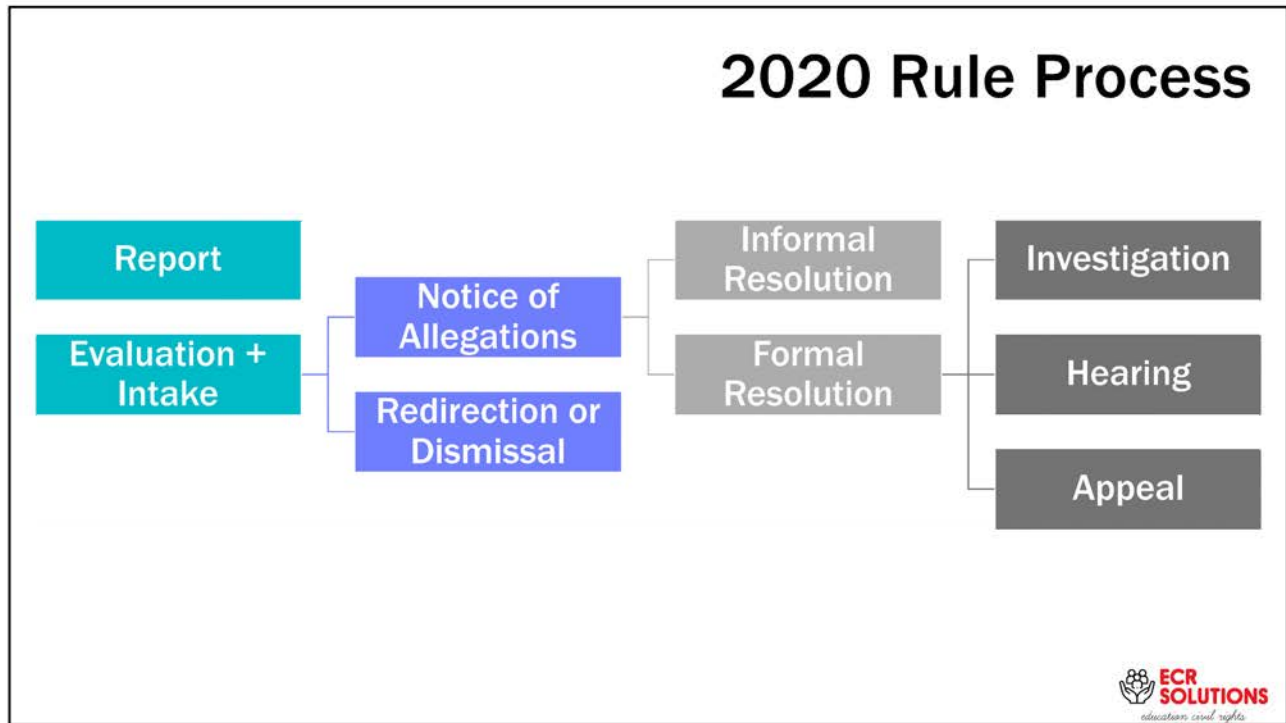


5

THREE QUESTIONS

1. When is the analysis triggered?
2. What conduct is covered? (jurisdiction)
3. **What process applies to the conduct?**

6



7

THE TITLE IX TEAM

- Title IX Coordinator
- Investigator
- Decision-maker
- Appellate Decisionmaker
- Informal Resolution Facilitator

8



KEY PLAYERS

Complainant: A person allegedly subjected to prohibited conduct



Respondent: A person who allegedly engaged in prohibited conduct

Advisor: “Chosen” or “Appointed”

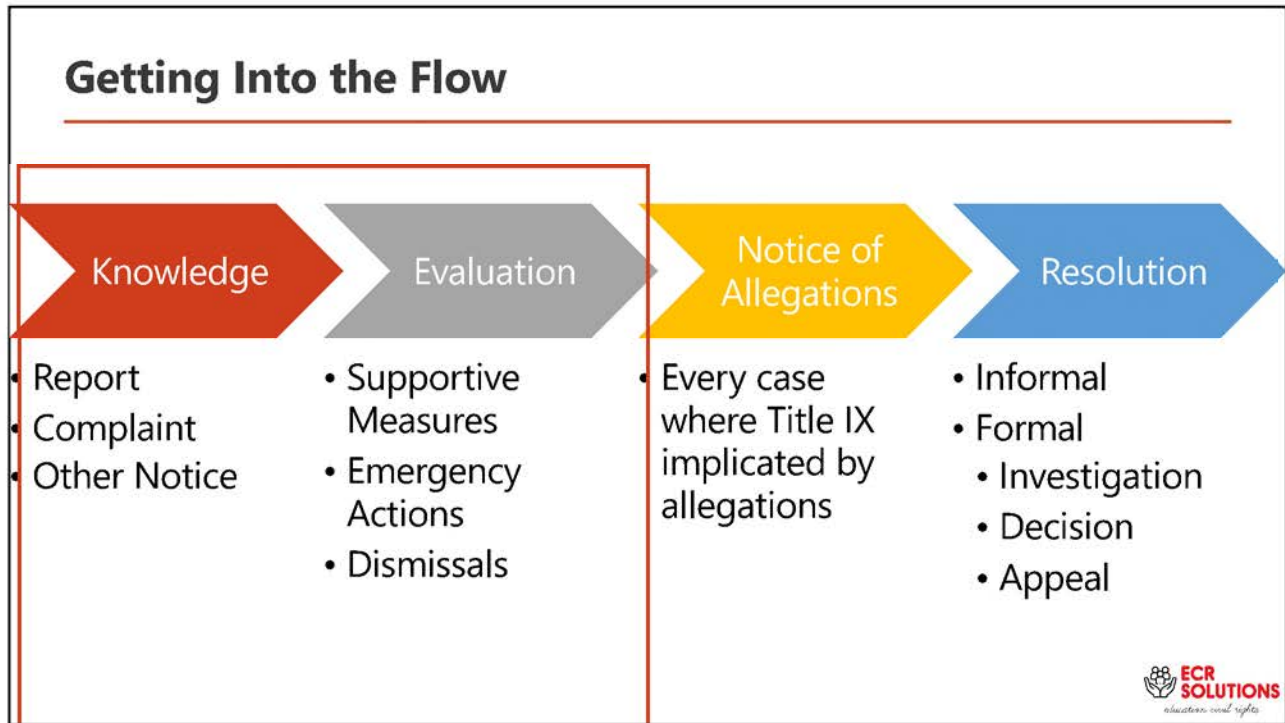
9

KEY TERMS TO KNOW

REPORT	COMPLAINT
<ul style="list-style-type: none">• Information about conduct that could be prohibited conduct• Any person can make a report• A report can be oral or in writing	<ul style="list-style-type: none">• A report <i>plus</i> a request that the university address the conduct• Limited individuals can make a complaint• Under the 2020 rules a complaint must be a “Formal Complaint” in writing and signed by the Complainant or the Title IX Coordinator



10



11

WHO CAN REPORT?

- Students
- Parents/Guardians
- Staff
- Community Members
- Police or CPS
- **ANYONE**
- Alleged Victims
- Alleged Perpetrators
- Witnesses
- Anonymous Sources
- Interlopers
- **No really, ANYONE!**

ECR SOLUTIONS
education civil rights

12

Upon receipt of a report...

- Building employees must notify the Title IX Coordinator
- The Title IX Coordinator is responsible for evaluating the complaint for Title IX applicability
- If the matter implicates Title IX, the Title IX Coordinator is responsible for overseeing the grievance procedure required by the Title IX rules
- The Title IX Coordinator should notify the Title IX Coordinator of receipt of the report and the evaluation decision and keep them apprised of the matter



13

What can the building do?

- Address immediate threats to health or safety (consider emergency removal)
- Consider contacting the police or CPS
- Consider contacting parents of the parties
- Consider helping the Complainant get medical help
- Consider contacting special education/disability services



14

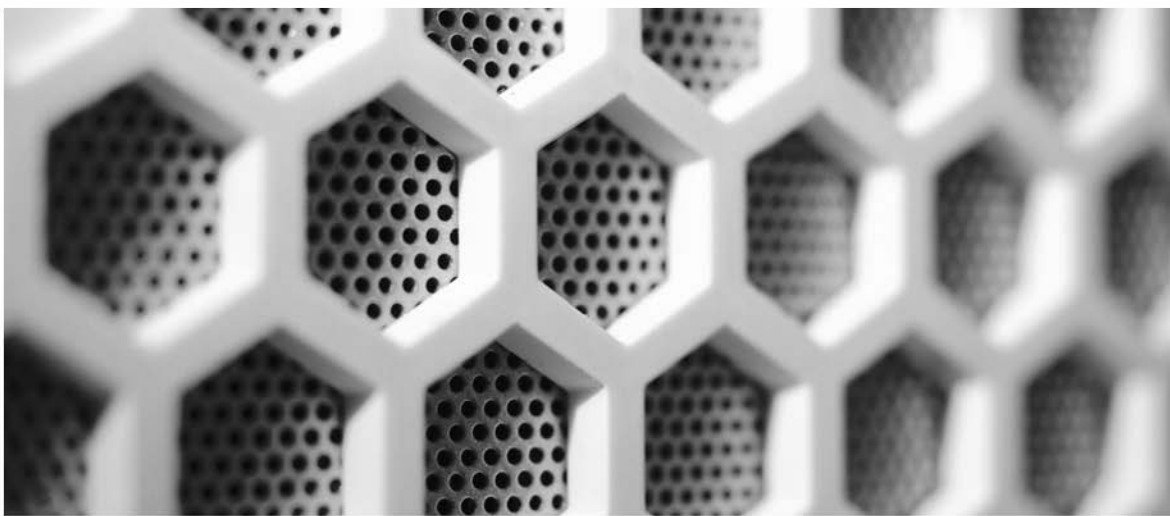
What should the building not do?

- Investigate anything (yet)
- Discipline anyone (yet)
- Tell the Respondent or their parents details about the complaint that could identify the Complainant (unless a formal complaint has been filed or the Complainant has agreed)



15

Intake & Evaluation



16

Pre-Complaint Response

Title IX

The Title IX Coordinator must:

- Promptly contact the complainant to discuss **supportive measures**, informing them that they are available with or without a formal complaint, considering their wishes, and explaining the formal complaint process
- Consider **emergency removal** or **administrative leave**
- Give the Complainant time to consider **filing a formal complaint**
- Consider **signing a formal complaint** if the Complainant does not

Oregon Law

When a staff member becomes aware of behavior that may violate the policy, the staff member shall report to an official of the district so that the official and the staff member may coordinate efforts to take any action necessary to ensure the impacted party is protected and to promote a nonhostile learning, work, or other environment, including:

- Providing resources for support measures to the student, and
- Taking any actions that are necessary to remove potential future impact on the student, staff member, or person, but that are not retaliatory against the student, the staff member, or the staff member who reported to the official of the district



17

18

EVALUATION

Would the conduct reported, if substantiated, violate policy?

Which policy(ies)?



18

What Are We Evaluating?

Is the alleged conduct:

1. "Title IX Sexual Harassment"
2. "in an educational program or activity"
3. "in the United States"

If yes to **all**: Title IX SH Process

If no to **any**: Another process

19

INTAKE VS INVESTIGATION

INTAKE + EVALUATION

- Receipt of report or complaint
- Acknowledgement, resources, and support for reporting parties or complainants
- Intake meetings with reporting parties and/or complainants to obtain allegations without regard for credibility
- Determination of jurisdiction
- Notice of rights
- Preservation of evidence

INVESTIGATION

- After sending of notice of allegations and notice of interviews
- Interviewing witnesses to obtain evidence
- Gathering evidence (documents, emails, records, etc.)
- Analysis of evidence, including addressing credibility indirectly or directly
- Investigation report with a summary of the evidence



20



WRITTEN NOTICE OF DISMISSAL

- Required under 2020 rule—can combine with notice of allegations
- Best practice to provide in writing any time the Respondent has received notice of allegations
- Parties who receive notice must have right to appeal



21

REMEMBER – IF IT’S NOT T9

DON’T IGNORE

Just because something does not meet the definitions to be “Title IX” does not mean you should ignore it

USE OTHER POLICY

If conduct would not, if substantiated, be covered by Title IX, you can use another policy or procedure to address it

SUPPORT, SUPPORT, SUPPORT

Best practice is always to support students who report any sex-based (or other civil rights) misconduct, even if Title IX does not require you to do so



22

DISMISSALS

TITLE IX

Mandated Dismissal

- No Title IX Jurisdiction

Permissive Dismissal (if Reasonable)

- Complainant's Written Request
- Respondent's Enrollment or Employment Ends
- Specific circumstances prevent gathering sufficient evidence to make a decision

OREGON LAW

- All reports shall be investigated?



23

Emergency Removals

- The educational institution must undertake an individualized safety and risk analysis, determine that an **immediate threat to the physical health or safety** of any student or other individual arising from the allegations of sexual harassment justifies removal
- Must provide notice and opportunity to challenge immediately after the removal

24

Administrative Leave

- Nothing in this subpart precludes an educational institution from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with § 106.45. This provision may not be construed to modify any rights under Section 504 or the ADA.



25

Key Requirements – When Investigation Occurs

Title IX

- An investigation only occurs if a formal complaint is **filed by the complainant** (or a minor complainant's parent/guardian) or **signed by the Title IX Coordinator**
- Informal resolution can be offered in certain cases, but only replaces investigation if both parties voluntarily agree to participate **and** it is successful

Oregon Law

"All complaints about behavior that may violate the policy shall be investigated"
- ORS 342.704



26

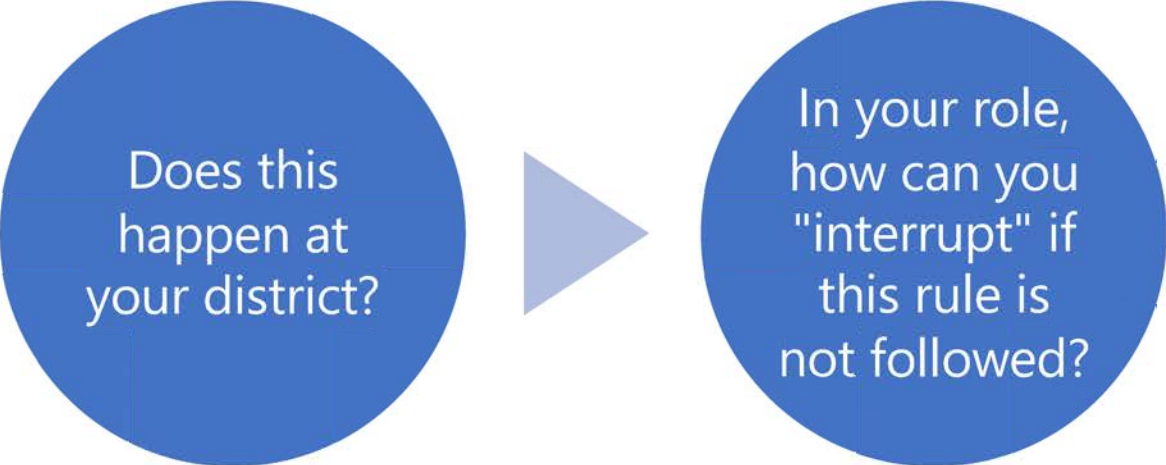


Title IX matter?
No Title IX complaint?
Go no further!
**If you must discipline, sign
or initiate a complaint**
**Otherwise, support,
support, support**




27

Work Alike: Stop, Drop, and Title IX



**Does this
happen at
your district?**

**In your role,
how can you
"interrupt" if
this rule is
not followed?**



28

What If....

The Complainant does not want to file a formal complaint?

- General rule: They decide
- Limited exception: Title IX Coordinator signs a formal complaint
- Will be required to share Complainant's name and details
- Complainant still has all rights in process



29

What If....

The Complainant does not want to file a formal complaint, and the district does not sign a complaint?

- The district can't discipline the perpetrator
- If we must discipline the perpetrator, we should file a formal complaint
- Just because you can't discipline doesn't mean you can't do anything



30

Signing a Complaint

- Pattern of behavior by same alleged perpetrator
- Alleged perpetrator used position of authority to engage in sexual harassment
- Predatory behavior toward minors, disabled individuals
- Threats of violence where risk is ongoing
- Use of extreme violence or weapons



31

First Response = First Impression

How you respond shapes:

- Trust in the process
- Willingness to participate
- Feelings of support
- Risk of complaints
- Legal soundness of the whole process
- Risk of retaliation



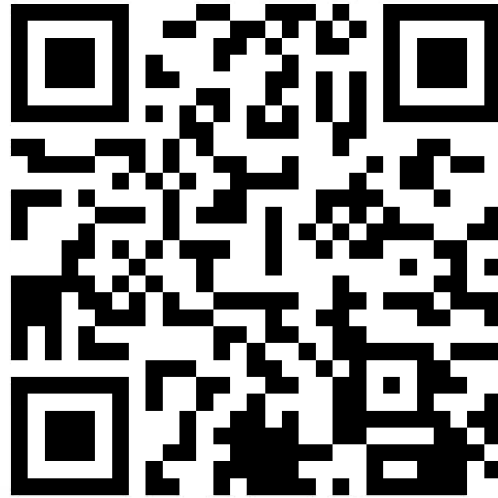
32

Work Alike: Report of Concern

Review the "Report of Concern"
document for Session 2

<https://tinyurl.com/OSPAT9Session1>

*See specific work alike group
questions in the document*



33

Intake Questions

- Who
- What
- When
- Where
- Why
- How



34

Intake Questions

- What happened that you believed was sexual harassment?
- What was done? What was said?
- If physical conduct occurred, ask for the details (in what ways were you touched, where were you touched?)
- Where did it occur? (Get details for every situation)
- When did it occur? At what time of the day?
- How often did it occur? Is it ongoing?
- Are you alleging any other violations of policy/sexual harassment or otherwise?
- Go over what happened—ask “Anything else?”



35

Supportive Measures Meeting

- For all Title IX Sexual Harassment in a program or activity and in the United States of which the school/district has “actual knowledge,” the Title IX Coordinator must meet with the Complainant (alleged victim) to offer supportive measures and explain the Formal Complaint process, even if no Formal Complaint has been filed.
- Even if the matter is not Title IX, under Oregon law this meeting is still required



36

Four topics must be covered:



The availability of
supportive measures



The complainant's
wishes with respect to
supportive measures



The availability of
supportive measures
with or without filing
a formal complaint



The process for filing a
formal complaint



37

SUPPORTIVE MEASURES

Free, individualized services designed to restore or preserve an individual's equal access to education, to protect the individual's safety, or deter further sexual harassment

Available before, during, after, and even if there never is a Title IX formal complaint process

Cannot be punitive or disciplinary

Cannot unreasonably burden another person

Available for both the Complainant and the Respondent, although the measures offered need not be equal and come later for the Respondent



38

SUPPORTIVE MEASURES

Counseling

Extensions of deadlines or other
course-related adjustments

Modifications of work or class
schedules

Campus escort services

Mutual restrictions on contact
between the parties

Leaves of absence

Increased security and monitoring
of certain areas of the campus



39

Supportive Measures Meeting



**Keep supportive measures
confidential**

**Before a formal complaint
is filed, must maintain
confidentiality of the
Complainant unless
necessary to implement
supportive measures**

40

SUPPORTIVE MEASURES

- Title IX Coordinator or designee must implement
- If necessary to share information to implement measures, obtain Complainant's written consent
- Follow up regularly with the parties to make sure the measures are working
- Increase the severity of measures or take new measures if initial measures are ineffective



41

41

Supportive Measures

- If the conduct does not fall under Title IX, supportive measures are still a good practice, but are not required
- It is **not recommended** that the Complainant be directed to file a formal Title IX complaint, direct the party to the correct process
- Because providing supportive measures is best practice **even for non-Title IX complaints**, the "intake meeting" can also be a "supportive measures meeting," regardless of what the results regarding Title IX jurisdiction are
- Don't hide the ball – always a fan of giving a copy of sexual harassment and procedures to anyone who contacts the office
- But don't lead a party down the "Title IX" path if you don't think their allegation is of Title IX conduct

42

Intake Documentation

1. Written communication to the Complainant requesting intake meeting
2. Written communication with Complainant after intake meeting (may just include allegations + supportive measures **discussed**, not decided, we will get back to)
3. Supportive measures given
4. If Title IX applies, written communication to Complainant notifying of right to file a formal complaint (can also call first)
5. If Title IX does not apply, written communication to Complainant notifying that information provided does not trigger Title IX process, but that the matter is being forwarded to be assessed for Code of Conduct violations

43

Work Alike: Report of Concern

Review the "Jane Doe" document for
Session 2

<https://tinyurl.com/OSPAT9Session1>

*See specific work alike group
questions in the document*



44

Remember! Parental Rights

- Both Title IX and Oregon law require granting parents/guardians of minor parties full rights to participate in the process
- HB 2631 requires that parents or guardians be notified for both the student alleged to have experienced and the student alleged to have engaged in bullying, cyberbullying, harassment, or intimidation. Prior to the notification, the student must be informed that such notice will be provided.
 - If the incident involves physical acts, the notification must be made promptly.
 - For other types of incidents, notification must be provided within a reasonable time.
- An exception applies if there is a reasonable fear that notification would endanger the student, or if the student requests that notice not be given and there is a reasonable belief that notification is not in the student's best interest.
 - Schools are still required to inform students that their parents or guardians may be able to access the information through their education records.



45

IMPARTIALITY

BIAS

- Assumptions based on characteristics of a person or thing
- Examples include status as a party and "protected statuses"

CONFLICT OF INTEREST

- Investment in the outcome of the matter
- Carefully consider your connections, background, experiences, etc.
- Consider perceptions, not just fact

PREJUDGMENT

- An opinion about a situation of a person that is formed before knowing or considering all of the facts
- Do not speculate, infer, connect the dots, rely on personal experience or belief, weigh credibility if you're not the decision-maker



46

REMEDYING RISKS

- Disclosure/written consent from parties
- Recusal
- Levels of review



47

Title IX & Law Enforcement Processes

Title IX

- Goal: Campus safety & education
- Law: Title IX, Oregon law, school policies
- Investigators: Trained school employees
- Parties: Complainant & Respondent
- Privacy: Kept as confidential as possible
- Evidence Standard: Preponderance of the evidence

Criminal Proceedings

- Goal: Public safety & punishment
- Law: Oregon criminal law, Federal law in limited circumstances
- Investigators: Police/law enforcement
- Parties: Prosecutor vs. Defendant
- Public: Trials are public
- Evidence Standard: Beyond a reasonable doubt



48

Title IX and Law Enforcement Processes

- A survivor can pursue a campus Title IX process, a criminal process through law enforcement, or both
- The processes differ greatly in formality, standards, and consequences—but schools must act under Title IX regardless of criminal outcomes
- It is possible to **delay** the Title IX process while a criminal investigation and adjudication occur
- It is also possible to rely on **evidence** obtained by law enforcement, though not conclusions drawn (e.g., not to prosecute)



49

Informal Resolution

- Requires a formal complaint
- Must be voluntary
- Cannot require IR or waiver of right to adjudication
- Formal Complaint required
- Written notice required
- Written consent required
- Cannot be offered for employee-on-student cases



50

Informal Resolution Notice

- In writing
- The allegations
- Requirements of IR
- Right to withdraw prior to agreement and resume the grievance process with respect to the formal complaint
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared



51

Informal Resolution Limits

- Cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student
- Must have a formal complaint on file



52

Work Alike: Informal Resolution

Does your
district use
informal
resolution?



How would the
use of informal
resolution
benefit your
role?



53

Retaliation

- **What Is Retaliation Under Title IX and Other Civil Rights Laws?**

Retaliation is **any adverse action** taken against an individual **because** they engaged in a protected activity, such as:

- Reporting sex discrimination or harassment
- Participating in an investigation, hearing, or other compliance process
- Advocating for rights under Title IX or similar laws (e.g., Title VI, ADA, Section 504)

Prohibited Retaliation Can Include:

- Intimidation or threats
- Social or academic exclusion
- Denial of promotions, awards, or opportunities
- Negative performance evaluations or grades
- Disciplinary action without legitimate cause



54

Retaliation

- Protected activity + adverse action + causal connection
- No requirement that the initial report was correct—only that it was made in good faith



55

Retaliation

Examples:

- A student athlete reports sexual harassment by a teammate. The coach benches the student for the next three games without explanation. Retaliation?
- A teacher supports a colleague's discrimination complaint and is later excluded from committees. Retaliation?



56

Notice



57

Key Requirements – Written Notices

Title IX

Notice to both complainant and respondent (and minor parties' parents/guardians) of:

- Allegations (and Supplemental Allegations)
- Dismissal
- Informal Resolution Process
- Meetings and Interviews
- Directly Related Evidence
- Investigation Report
- Hearing
- Written Determination with Notice of Appeal

Oregon Law

Notice to the reporting person, impacted person (complainant), reported person (respondent), and parents/legal guardians, where applicable, to the extent allowed by state and federal student confidentiality laws:

- Upon receipt of a complaint
- When the investigation is initiated
- When the investigation concludes
- When a decision is reached (whether a violation of the policy was found to have occurred)



58



CONFIDENTIALITY VS. PRIVACY

- Once a complaint is filed, signed, made, or initiated, the Complainant's identity cannot remain confidential
- Explain this to the Complainant early on in the process
- Can/should take steps to protect privacy



59

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Thank you!

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60

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Long descriptions

Figure on page 6

The flowchart presents a structured process for managing complaints, divided into four key stages: Knowledge, Evaluation, Notice of Allegations, and Resolution. Each stage is represented by a colored arrow, indicating the progression from one phase to the next. The first stage, 'Knowledge,' is highlighted in red, suggesting the initial gathering of information. The second stage, 'Evaluation,' is shown in gray, indicating a neutral assessment phase. The third stage, 'Notice of Allegations,' is depicted in yellow, emphasizing the formal notification of issues. Finally, the 'Resolution' stage is illustrated in blue, representing the conclusion of the process. This visual guide aids in understanding the sequential steps involved in complaint resolution.

Figure on page 12

The image features text that addresses the topic of dismissals, specifically focusing on solutions related to Oregon law. The heading 'DISMISSALS' indicates the primary subject matter, while the caption 'SOLUTIONS' suggests a discussion on potential resolutions or strategies regarding dismissals. Additionally, the nearby text references 'education civil rights,' implying a connection to legal considerations in educational contexts. This content may be relevant for individuals seeking information on legal rights and remedies in educational settings within Oregon.