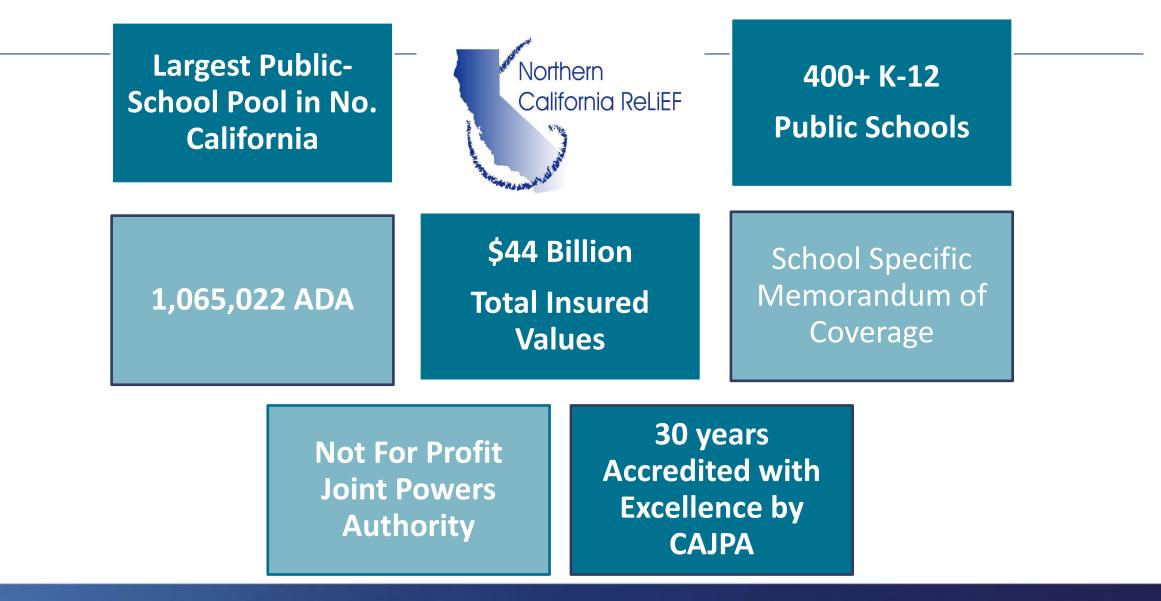
California ReLiEF

TITLE IX Training Series

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Northern California ReLiEF



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TITLE IX **CONSULT** LLC



NCR's Title IX Training Series

Title IX Training for All Employees of K12 School Districts

July 20, 2022 12:00-1:00PM PDT Zoom Training

Title IX Coordinator Training



August 10, 2022 12:00-3:00PM PDT Zoom Training

Title IX Investigator Training

August 17, 2022 12:00-3:30PM PDT Zoom Training

Title IX Decision-maker Training

August 24, 2022 12:00-2:00PM PDT Zoom Training

For more information: https://ww2.keenan.com/ncr-titleix-training-series



Title IX Training

For All Employees



Disclaimer

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Title IX Training Overview

- Introduction to Title IX law and regulations
- Education institution's legal obligations under Title IX
- Employees' responsibilities to enforce Title IX
- Title IX Coordinator role
- Title IX definitions and grievance process overview
- State law obligations
 - Sexual Harassment in employment
 - Sexual Harassment in education program and activities for students
- Board Policies and Administrative Regulations that govern Title IX and Sexual Harassment at California school districts.



Title IX Law

- Federal law passed in 1972
- 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.
 - Prohibits sex discrimination and sexual harassment
- Enforced through the Department of Education, Office for Civil Rights (OCR)



Final Rule on Title IX (effective 08/14/20)

- Has the force and effect of law
- Set legal standard under Title IX for K-12 school districts
- Defined Title IX Coordinator's Role
- Clarified parties and other administrative roles in Title IX enforcement at the district
- Defined sexual harassment under federal law
- Described compliant grievance process
 - Supportive measures
 - Requirements for the process and informal resolution
 - Due process obligations



LEGAL OBLIGATION

Educational institution must respond in a manner that isn't deliberately indifferent when it has actual knowledge of sexual harassment occurring in the institution's education program or activity against a person in the United States.



Actual Knowledge of Sexual Harassment

- When sexual harassment or allegations of sexual harassment come to the attention of ANY EMPLOYEE of a K-12 district, all employees MUST report to the TITLE IX COORDINATOR
- No employee of the district can promise confidentiality to a party or witness and/or make the decision not to report unless they hold confidential status (ex., licensed mental health counselor)
- Failure to report could lead to an inadequate response
 - Proof of deliberate indifference
 - Legal responsibility for sexual harassment



Title IX Coordinator's Role

- Title IX Coordinator is tasked with managing the Title IX response on behalf of the school
 - Name, office address, email address, phone number of "Title IX Coordinator" available
 - Distributed to students, employees, applicants for admission and employment, parents and legal guardians, and unions
 - Accepts reports of potential Title IX violations by telephone, email, and verbal reports



Title IX – Parties and Administrators

Administration of Claims

Title IX Coordinator

 Complainant – alleged victim/survivor

Parties

 Respondent – respond the allegation

- Title IX Investigator
- Title IX Decision-Maker
- Title IX Appeal Officer
- Title IX Advisor
- Title IX Informal Resolution Officer





Title IX Sexual Harassment Under 2020 Regulations



Title IX Definition of Sexual Harassment

Defined conduct on the basis of sex and includes:

- Quid pro quo harassment
- Hostile environment harassment
- Sexual assault
- Dating/domestic violence
- Stalking



Title IX Definition of Sexual Harassment, continued

- Quid pro quo An employee who conditions the receipt of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct.
- Hostile environment sexual harassment, defined as unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectionably offensive that it effectively denies a person equal access to the school's education program or activity.



Title IX Definition of Sexual Harassment, continued

Sexual Assault

- Rape
- Fondling
- Incest
- Statutory Rape

Dating/Domestic Violence

Stalking



Title IX Jurisdiction Issues

• In order for the district to have jurisdiction, the incident must have occurred in the institution's education program or activity, which is defined to include:

"locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs"

• In order for the district to have jurisdiction, the matter must be brought related to an incident that occurred in the United States



Title IX Dismissals - Mandatory and Permissive

Mandatory dismissal

- Would not constitute sexual harassment as defined in regulations
- Did not occur in education program or activity
- Did not occur against a person in the United States

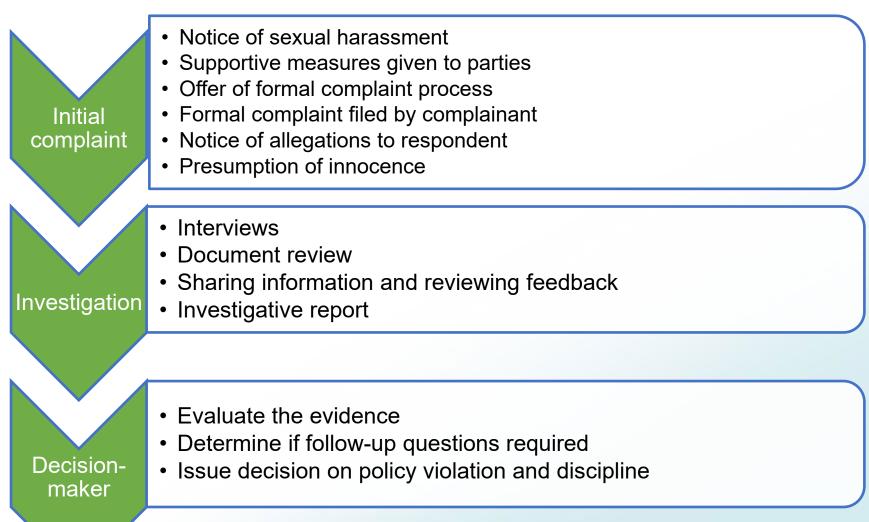
Permissive dismissal

- Complainant notifies Title IX Coordinator in writing that Complainant would like to withdraw formal complaint or allegations
- Respondent is no longer enrolled or employed by school district
- Specific circumstances prevent the school district from gathering evidence sufficient to reach a determination



Overview of Title IX Grievance Process

OBLIGATION: Respond promptly in a manner that is not deliberately indifferent

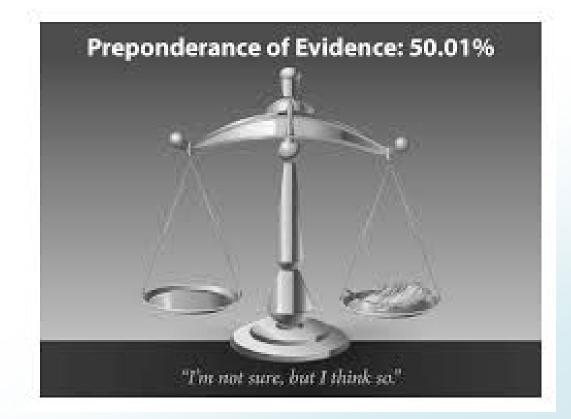




Title IX Burden of Proof

 Preponderance of the evidence standard is used in concluding a potential Title IX violation

• Clear and convincing standard may be used



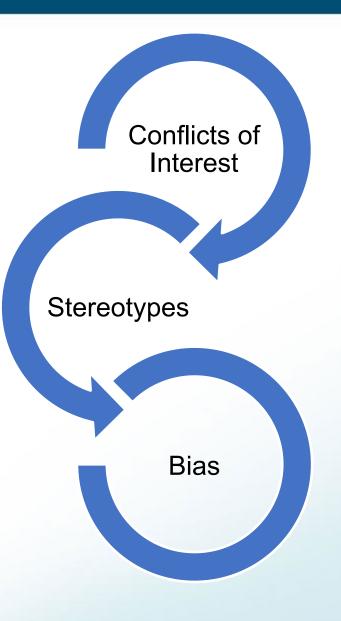


Title IX ensures Constitutional Protections

- Under Title IX, schools may not restrict the rights afforded under:
 - First Amendment (Free Speech)
 - Fifth Amendment (Protection against Self-Incrimination)
 - Fourteen Amendment (Due Process)



Title IX Process MUST avoid





Title IX Prohibition against Retaliation

- Prohibition against retaliation for any participant in the Title IX investigation process
- Requires some level of school action





STATE LAW - Sexual Harassment



State Law Distinctions

- Definitions of sexual harassment
 - Quid pro quo
 - Hostile environment
- Processing an allegation of sexual harassment
 - Uniform Complaint Procedures



Sexual Harassment Process

Notice of potential Sexual Harassment from student or employee

Title IX Coordinator Review/investigation of Title IX violation

Review/investigation of sexual harassment under Title IX process Review/investigation of sexual harassment under state law process



Title IX Coordinator

NAME **Title IX Coordinator** Physical Address Office Location Phone Numbers Email Address



CA BP/ARs Impacted by Title IX

STOP and review:

Student policies

- BP 5145.7 Sexual Harassment
- AR 5145.7 Sexual Harassment
- AR 5145.71 Title IX Sexual Harassment Procedures

Employee policies

- BP 4119.11, 4219.11, 4319.11 Sexual Harassment
- AR 4119.11, 4219.11, 4319.11 Sexual Harassment
- AR 4119.12, 4219.12, 4319.12- Title IX Sexual Harassment Procedures

Process – Uniform Complaint Procedures

- BP 1312.3
- AR 1312.3



When sexual harassment or allegations of sexual harassment come to the attention of **ANY EMPLOYEE** of a K-12 district, all employees **MUST** report this information to the Title IX Coordinator.

- No employee of the district can promise confidentiality to a party or witness and/or make the decision not to report
- Failure to report could lead to an inadequate response
 - Proof of deliberate indifference
 - Legal responsibility for sexual harassment



Title IX: Notice of Proposed Rulemaking

- Proposed new regulations released 6/23/22
- Comments due by 9/12/22
- New regulations in the future with an unknown effective date
- Key areas that are expected to change:
 - Pregnancy
 - Jurisdiction
 - Definitions
 - Grievance Process
 - Much, much more!





Questions: <u>megan@titleixconsult.com</u> <u>www.titleixconsult.com</u>

