
Title IX and Discrimination Training

2026-2027 School Year

Title IX and Discrimination Training

Topics

- Definitions, Scope and Obligations
- Athletics
- Roles and Responsibilities
- Grievance Process
- Checklists
- Investigations, Decision Making, and Report Writing
- Case Management

Expectations

- Active engagement during presentation
 - This can be listening or offering ideas and questions
- Active engagement during scenarios/ practice
 - Actively contribute in small groups
- Take breaks as **You** need
 - We will also take a 15 min break at the top of each hour
- Handouts are yours - take notes on them as you like
- You will receive all handouts and slides electronically

Who are Mandatory Reporters?

As a school district employee, you are a mandatory reporter – no matter what your role is in the district

A mandatory reporter is defined as a professional who is obligated by law to report known or suspected incidents of child abuse and/or neglect. Mandatory reporters are part of the safety net that protects children and youth and has the ability to provide life-saving help to child victims in our community. Any person specified in C.R.S. 19-3-304 is by law a mandatory reporter in Colorado.

Title IX per Federal Law

What is Title IX?

- Title IX is a federal civil rights law passed as part of the Education Amendments of 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.”
- **What does this mean?**
 - In simple terms, Title IX protects people from sex-based discrimination in education.
 - It applies to schools, colleges, and universities that receive federal funding.
- **Sex Based Discrimination vs. Harassment**
 - Sexual Harassment: objectively offensive, pervasive, and severe such that it limits participation in educational activity
 - Sex Based Discrimination: broader, unequal treatment on the basis of sex (ex: demotion due to pregnancy; ex: not selecting someone for team captain due to sexual orientation)

Title IX and Athletics

Disparate Impact – Recent Update by Executive Order

Background and Today

Title IX mandates equitable opportunities for both male and female student-athletes

- Opportunities: opportunities for male and female athletes proportionate to respective enrollments
- Scholarships: total amount given to male and female athletes must be proportionate to ratio of men and women in varsity level teams
- Benefits: male and female teams must be treated equally when it comes to
 - Equipment and supplies
 - Schedules of games and practices
 - Travel opportunities
 - Coaching and tutoring services available
 - Locker rooms and facilities
 - Training, etc.

It is common understanding that Title IX is about athletics, but it has expanded to cover so much more!

Title IX Scope per 2020 Regulations (current standard)

Sexual Assault, Domestic or Dating Violence, and Stalking

Sexual Harassment

Quid Pro Quo – Someone conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct

Hostile Environment – Unwelcome conduct determined by a reasonable person to be:

- **Objectively Offensive:** A reasonable person in the complainant's position must find the conduct to be offensive *and*
- **Pervasive:** The conduct must occur repeatedly or be widespread, not just a single isolated incident *and*
- **Severe:** The conduct must be significant enough that it affects the complainant's ability to participate in or benefit from the school's programs *and*
- Effectively **denies** a person equal access to the District's education program or activity.

Sex Discrimination

Program Equity

Retaliation: specific to a protected activity (ex: participation in a Title IX complaint)

Criminal Sexual Contact vs. Fondling

“**Fondling**” has been replaced with “**Criminal Sexual Contact**” along with an expansive definition on what constitutes the latter.

Definition:

11D Criminal Sexual Contact

1. The intentional touching of the clothed or unclothed body parts without consent of the victim for the **purpose of sexual degradation, sexual gratification, or sexual humiliation**, and/or
2. The forced touching by the victim of the actor’s clothed or unclothed body parts, *without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation*.

Note: Touching means any body part, clothed or unclothed.

Academy District 20 Policies & Procedures

Based on Federal and State Law

Academy District 20

Administrative Policies and Procedures: a roadmap for what to do when

- AC: Nondiscrimination/Equal Opportunity
- AC R 1: Harassment and Discrimination Investigation Procedures for Students (discrimination)
- AC R 2: Harassment and Discrimination Investigation Procedures for Staff Members, Applicants for Employment and Members of the Public (discrimination)
- AC R 3: Sexual Harassment Investigation Procedures
- AC E 2: Complaint Form
- JICDA: Code of Conduct
- GBAA: Sexual Harassment of Staff Procedure

Harassment/Discrimination Definitions

Nondiscrimination/Equal Opportunity

Implementing regulations are designed to foster a climate that provides preventative measures and encourages the reporting of discrimination and harassment and related retaliation. The District administrators will engage in prevention efforts, train the school community, respond to all complaints promptly, provide supportive measures, and develop fair and equitable processes to investigate and address complaints of discrimination and harassment, and related retaliation, and ensure all parties are treated fairly and impartially.

Definitions Based on Federal Law

“Protected classes” include race, color, gender, sex, sexual orientation, gender identity or expression, transgender status, religion, national origin, immigration/citizenship status, ancestry, age, pregnancy, marital status, veteran status, disability, family composition and genetic information of a staff member or applicant for employment.

“Harassment” is any unwelcome, physical or verbal conduct or any written, graphic, or visual communication directed at a student, staff member, applicant, or member of the public based on their protected class that is objectively offensive to a reasonable individual who is a member of the same protected class.

“Discrimination” occurs when a student or community member is denied or limited in the ability to participate in or benefit from the District’s services, activities, or opportunities on the basis of their protected class. Discrimination also occurs when the District fails or refuses to hire an staff member, discharges an staff member, or otherwise treats a staff member differently with respect to compensation, terms, conditions, privileges, opportunities, or status on the basis of their protected class. Harassment of a student, staff member, or community member is a form of discrimination.

Why so much training?

Why follow such a strict process?

Why use templates and all...?

2020 Regulations

- A streamlined process allows for all students and staff to have the same opportunities regardless of where they are throughout the District.
- One main component of the 2020 Regulations is **Due Process**
 - An allegation does NOT mean a determination of responsibility!
- This means **Transparency**
 - Opportunity for everyone (Complainants and Respondents, and guardians) to be in the know **And** respond.

Resolution Options

Informal Resolution vs. Formal Investigation

Resolution Options: Informal vs. Formal Opportunities

Informal Resolution (AC R 1, AC R 2, and AC R 3)

- Skips a formal investigation and goes straight to resolution
- Compliance Coordinator must agree to this option and can withdraw this option at any time
- Both parties must agree – freely consent to informal, no coercing into this option
 - Not available when the allegation is sexual assault or an act of violence
 - Not available if the Respondent is a staff member and Complainant is a student
- Either party can withdraw consent for an informal resolution at any time and move to a formal procedure
- May occur when a Respondent admits responsibility or does not admit responsibility (ex: disagreement with reported fact pattern), but still agrees to participate in an informal resolution
- This may result in a finding of responsibility & potentially include discipline on a student's record**
- Presents creative opportunities for learning and resolution
- Upon conclusion, both parties must agree that the complaint has been resolved
 - If parties do not agree it has been resolved this may necessitate a revisit of the informal opportunities or turn to a formal investigation process

Formal Resolution

- Follow formal District procedures
 - Discrimination (AC R 1 & AC R 2)
 - Sexual Harassment/Title IX (AC R 3)

Informal Resolution Process

Title IX & Discrimination (AC R 1, AC R 2, AC R 3)

- The Investigator presents both options to Complainant
 - Speak with guardians to address the report, implement interim supportive measures, and discuss options for formal or informal (recall what is on the reporting form to introduce this conversation)
- If Complainant agrees to informal, Investigator presents formal and informal options to Respondent
 - Can meet with each party individually
- If all parties agree to informal, Investigator will document consent
 - Investigator drafts the agreement
 - Compliance Coordinator reviews and approved the plan
 - Investigator meets with and has each party sign and date the agreement
- Investigator enacts the informal resolution (see examples on next slide)
- Upon conclusion, both parties must agree in writing that the complaint has been resolved
- After CC review, the Investigator will send a copy of the report to the Complainant and Respondent
- Close the case and document everything

Informal: Resolution Options

Options (this is not an exhaustive list)

- Educational Sanction
 - Educational Training (ex: watch a documentary or training video)
 - Coaching Conversation
 - Note: do NOT mandate counseling
 - Reflection Writing/ Activity
- Remedies
 - Not disciplinary in nature
 - Ex: Getting Along Agreement or No Contact Orders
 - Ex: Change test question/ modify lecture materials
- Disciplinary Action
 - Appropriate to the allegation (consider intent and impact)
 - Ex: ISS
- Restorative Measures
 - Typically requires accountability/admission of responsibility
 - Ex: Aim for mediation
 - This requires ongoing consent; can be stopped at any time

Formal Investigation: Roles

- **Compliance Coordinator (CC), or designee (HR)** – oversee policies, procedures, and training to prevent and address issues like sexual harassment or discrimination, ensure district complies with federal regulations and provides a fair and safe environment for students and staff (designee: Assistant Director of HR)
 - Oversee investigation, decision making, and appeal process
 - Create letters to include: NOIA/Supportive Measures, Getting Along Agreement/No Contact Orders, Review and provide feedback on Notice of Determination Report, and/or serve as Investigator on certain cases
- **Investigator (I) Usually Dean or AP-** conduct impartial and thorough investigations into complaints
 - Receive and review reports; assist with submitting formal complaints when appropriate
 - Conduct Investigation (interview, statement, evidence collection) etc.
 - Draft/issue Investigation Report (objective; state facts; no opinions; no decisions)
- **Decision Maker (DM) Usually AP, Principal, or PSSG** – responsible for determining outcome of investigation
 - Cannot be involved once an investigation has been initiated
 - Receive and review Investigation Report
 - Determine responsibility by “preponderance of the evidence”
 - Allegation(s) of Behavior
 - Alleged Policy Violation(s)
 - Determine/recommend sanctions (disciplinary action)
 - Draft/ issue Notice of Determination Report that includes determination rationale, & provide information about right to appeal (TIX only)
- **Appeal Administrator (AA) Usually PSSG**– Review Appeal Request and Make Final Decisions – *applies to Title IX only*
 - Review appeal request
 - Ensure fairness
 - Make final determinations
 - Draft/Issue Appeal Report and communicate final outcome to both parties

Formal Investigation: Roles continued

- **Complainant:** The person impacted by the behavior (victim)
 - The District can file a formal complaint.
 - That does not make the District the “complainant.” The victim/ impacted party is still listed as the “complainant” and has full rights to participate in the process, review investigation report, determination, etc.
 - They may, in writing, formally request to not be involved. In that case, they forgot their right to participate and have anything they share considered in the investigation and the District will uphold their wishes and not contact them about the matter any further to all extent reasonably possible.
- **Respondent:** The person alleged to have engaged in the behavior (alleged offender).
- **Guardian:** The person/ people documented as official ‘guardian’ in Infinite Campus.
 - Inform guardians throughout the process.
 - While it is important to hear from students directly, guardians may speak on behalf of their student. Document who is speaking the report.
- **Advisor:** Complainants and Respondents may have an advisor present during interviews. (Not available for witnesses).
 - If the Complainant or Respondent is a student, they may have a guardian present for interviews and an appointed advisor.
 - An Advisor is not an advocate.
 - An Advisor’s role is to be knowledgeable of the process, be able to help explain the procedures, advise their person (Complainant or Respondent) throughout the process, and offer support.
 - An Advisor may not speak on behalf of a Complainant or Respondent. However, they may read a pre-written statement that was drafted by the Complainant or Respondent during an interview.
 - The District does not recommend, nor train advisors.
 - If an advisor is an attorney/acting in the capacity of an attorney, you must notify the Compliance Coordinator ASAP so that the District may also have their legal counsel involved/present if necessary/appropriate.

Formal Investigation: Overview of the Process

Title IX (sexual harassment) (ACR3)

- Initial Report
 - severe, pervasive, objectively offensive, denies access
- Formal Complaint
- Notice of Allegations
- Parent Student Rights
- Supportive Measures
- Investigation
- Notice of Determination Report
- Appeal

Discrimination (AC R 1 & AC R 2)

- Initial Report
 - severe, pervasive, objectively offensive, denies access
- *N/A – (no formal complaint required)*
- Notice of Allegations
- Parent Student Rights
- Supportive Measures
- Investigation
- Notice of Determination Report
- *N/A - (no appeal option)*

- *Note: These are similar, but not the same. More layers to a formal Title IX investigation.*

Investigation (Grievance) Process for TIX & Discrimination

Note: **Bold** applies only to Title IX

Incident	Initial Assessment	Formal Investigation	Decision Making	Appeal (TIX only)
• Initial Report • Call Compliance Coordinator to determine how to address • Stop, prevent, and remedy • TIX Only: Do Not proceed with collecting statements, evidence, or interviewing parties until you speak with CC and an official investigation has begun • You may discuss the initial report	• TIX- • Severe, Pervasive, Objective Offensive, and denies equal access? • Discrimination/Harassment • intent and Impact? • Jurisdiction • Emergency Removal • Referral to Another Process • Informal/Formal Resolution • Dismissal	• Formal Complaint (signed)-TIX only • NOIA /Parent Student Rights and Supportive Measures • Interviews & statements • Evidence Collection • Draft Investigation Report • CC review draft • TIX Only:10-day review/comment (parties) • TIX Only 48-hour review (parties) of incorporated feedback • Investigation Report to DM	• Review Investigation report • May ask for additional information • Credibility Assessment • Determination and Rationale • Sanctions • Manifestation determination meeting when necessary • Total days of suspension exceeds 10 • Remedies	• TIX Only: Appeals may be submitted for TIX only on the following grounds: 1. Procedural Error 2. New Evidence 3. Conflict of Interest/Bias • TIX Only: Appeal Admin to determine if the appeal meets the grounds and if so make a final determination with justified rationale

Investigation Process Overview:

For Student Cases (when the Respondent is a student)

Process

1. Address complaints in accordance with Policy ACR-3, including applicable review, response, determination, and appeal procedures.
2. Provide parties with required opportunities to review information, submit responses, and receive notifications as outlined in Policy ACR-3.
3. Issue findings and determinations through the designated decision-maker process outlined in Policy ACR-3.
4. Communicate outcomes and appeal rights to the parties as required by Policy ACR-3.

Appeals

- Title IX matters: Appeals may be submitted on the grounds permitted under applicable Title IX regulations and Policy ACR-3.
- If an appeal is submitted, the Compliance Coordinator will review and coordinate the appeal process

Ongoing Communication

- Provide status updates and case communications to parties as required by Policy ACR-3 and applicable law.

Supportive Measures

Regarding Investigation Process Step by Step #6

Supportive measures refer to a range of non-disciplinary, non-punitive, individualized services offered to both the complainant and the respondent involved in a report of sexual harassment or discrimination. These measures are intended to ensure equal access to education and help protect the safety and well-being of those involved in the situation.

- Goal of Supportive measures:
 1. **Prevent further harm or retaliation:** They can help prevent retaliation or further incidents of harassment.
 2. **Ensure equal access to education:** Supportive measures aim to remove barriers to the complainant's ability to participate in or benefit from educational programs or activities.
 3. **Protect the rights of all parties:** Measures can be put in place for both the complainant and the respondent to ensure a fair process.
- Examples of Supportive Measures:
 - Getting Along Agreement/No Contact Orders
 - (CC) will create and (I) will get appropriate signatures and email to families
 - Access to Counseling
 - Access to Administration
 - NOTE: You can move a party to a new class **Only** if they request it (try not to propose this). If it deemed punitive and against due process rights to move a someone unless they first ask to be moved.
- Process:
 - When you inform guardian(s) of the allegations, notify them that they will receive a NOIA that will include information about supportive measures in place, which will always include Access to Administration and Access to Counseling.
 - Ask if they would additional measures they would like considered.

Notice of Investigation & Allegation(s) - NOIA

Regarding Investigation Process Step by Step #8

NOIA Letter Includes:

- Information about Title IX
- Policy and Procedure
- Allegations – specific alleged behavior(s)
- Notification of Investigator
- Supportive Measures
- Parent/Student Rights
- Names of Complainant and Respondent
 - (CC) will create the NOIA and refer to each party by their names and in parenthesis it will identify them as Complainant /Respondent
 - If multiple Complainants and Respondents refer to Complainant 1, 2, etc. Respondent 1, 2, etc.
 - After the NOIA, all parties will be referred to as Complainant and Respondent (no longer names)

Dismissal of a Formal Complaint

- Complaints may be dismissed when formal complaint does not rise to Title IX and/or when the District loses jurisdiction (ex: may dismiss if the Respondent is not or is no longer affiliated with the District; or when the allegations occur off campus; etc.)
 - Parties have the right to appeal the dismissal of a **formal** complaint

Investigation Report

- Use the Investigation Report template
- Do not include identifiable information
- Investigation Timeline Information
 - Include dates of applicable contact with guardian(s), dates of when letters/emails sent etc.
- Allegations: copy and paste directly from the NOIA
- Elements of Investigation
 - Interviews: Include all relevant information from your interview with each party. Include direct quotes if appropriate.
 - Written Statements: Either include all relevant information from the statement in your report or embed the entire statement (typed) in the report.
 - Note: (I) will type/ transcribe written statements, or direct quotes, exactly as they submitted, including any spelling or grammatical errors.
 - Retain a copy of the original statement.
 - Physical Evidence: State who provided the evidence. Embed all copies of all evidence within the report or attach in the appendix. If you attach in the appendix, you must still describe the evidence in the report.
 - If evidence is a video, include a summary of the video in the report.
 - Note: Parties may request to view the video. If so, follow proper process (per EAC District Security).
 - The decision maker will be given access to view the video.
- Do not state a recommendation for findings or conclusion (this is the role of the Decision Maker)
- Send draft to CC to review, if TIX only, CC will send to parties for initial review. Parties can request information to be added for their interviews if it is relevant to the case. This is decided by CC and Investigator. Once report is final, CC will send it to the DM for a decision
- **Remember:** Discipline/ sanctions **Cannot** be administered (if determined) until the entire process is complete including the duration of the Title IX appeal window – Uphold due process!

Investigation Training

We just reviewed the what (to do).

Now, let's discuss the how.

Partner With Parents/Guardians

Communication is Key!

- Partner with guardians!
- Call parents of any student interviewed to advise them you are looking into situation – still investigating – give high level overview (no details) unless advised
- Talk to your staff who might hear about concerns as these situations need to be reported immediately.
- When in doubt, consult!
- Empower all parties with information, even if we do not yet have an answer about what direction we are going to move.
- **Ask** for privacy and discretion

Investigation Tips

Plan, plan, plan!

- Review information (Complaint and NOIA) to understand the scope, parties, dates, location, etc.
- Remember to remain neutral!
- Do not make a judgement.
- Be thorough but stay within scope!

Who to interview?

- What is the relevance of this person?
- Do they have direct knowledge of the allegations?
- Do they have important context around the allegations?
- Can they corroborate a party's statement when other existing evidence is not available?
- Just because a potential witness is suggested, does not mean you have to interview them.

What evidence to collect?

- Ex: Text messages, emails, screenshots, photos, social media posts, video, etc.
- Analyze/ evaluate if the information is relevant to add to the report
- Videos: Act quickly! Complaints may come in close to when District video retention may expire.

Interviewing Strategy

- Consider Timing
- Interview Complainant & Respondent & Witnesses (separately)
 - Consider guardian involvement
 - Explain the process and remind everyone of the role of an advisor, due process, non-retaliation
 - Use same tone and approach for each party
 - Let them tell their story
 - Follow up with clarifying questions (who, what, where, why, when, and how)
 - Ask if any witnesses and/or evidence – collect this
 - Interview third-party witnesses (friends, staff, etc.)
 - Ask factual, not speculative questions
 - Document responses precisely

Interviewing Tips Part I

- Develop an Interview Protocol (Prepare Questions)
 - Use an Opening Script (template available)
 - Add what you need - Ex: "My job is to remain neutral and collect information, not to make any judgements. If you see me nodding my head while you are speaking, or make a neutral face while writing down notes, this is my way of communicating that I am listening, not that I necessarily agree or disagree with your statement."
- Documentation
 - Stay neutral
- Use open-ended, non-leading questions
- Make sure question fits the person you ask
- Be prepared to ask follow up questions
- Allow breaks, let interviewees control the pace
- If someone offers evidence, accept it. Do not dismiss evidence without reviewing it.
- Ask questions that might help the decision maker understand the following:
 - Discrimination and Title IX:
 - Intent
 - Impact
 - Title IX: Are the allegations
 - Objectively offensive
 - Severe,
 - Pervasive
 - Was there was a loss of equal access

Decision Maker
10 Day Review is Complete. Now what?

Decision Maker

Role & Responsibilities

Did the Behavior Occur as Alleged?

Did the Behavior Meet Title IX:

- Severe **And**
- Pervasive **And**
- Objectively Offensive **Such That**
- Denied opportunity to participate in educational program

- Should have very limited involvement/ knowledge of the case.
 - Ex: a Principal might serve as a decision maker and be aware of the complaint, but this does not mean that they now have a conflict. However, if a Principal has been highly involved with the matter throughout the investigation, then we need to assign a different decision maker.
- Must be neutral and free from bias or conflict of interest
- Standard of Evidence: Preponderance of Evidence
- Determine Responsibility
 1. Behavioral Allegations
 2. Policy Violation based on District policy and procedure (AC, AC R 1, AC R 2, AC R 3)
 1. This is NOT making a decision based on any criminal codes
- Remember, even if you find that the alleged behavior occurred, it may or may not violate District policy/procedure.
 - Just because the Compliance Coordinator determined that the formal Title IX or discrimination grievance procedure is the appropriate pathway to address the concern, does not mean that the alleged behavior automatically violates policy.
 - The investigation is supposed to reveal additional information that can afford the Decision Maker the opportunity to make a fully informed decision about (1) behavioral allegations and (2) if those behaviors violated Title IX or discrimination policies.

Decision Maker – Requirements per Policy

Discrimination (AC R 1 & AC R 2) vs. Title IX (AC R 3)

Discrimination: AC R 1 & 2:

- Policy & Interpretation
 - Compliance Coordinator or designee shall run the process:
 - Designee 1: Investigator
 - Designee 2: Decision Maker
 - No review periods!
 - No appeal!
 - Decision Maker: The decision must include a written determination that includes:
 - (1) Findings of Fact (behavioral allegations) and (2) Alleged Policy Violations
 - Explain how and why the decision was made
 - Issue recommendations for disciplinary measures, if appropriate

Title IX (AC R 3):

- Investigator does NOT make any recommendation
- Decision Maker: The decision must include a written determination that includes:
 - (1) Findings of Fact (behavioral allegations) and (2) Alleged Policy Violations
 - Explain how and why the decision was made
 - Issue recommendations for disciplinary measures, if appropriate

Decision Making Process: Title IX and Discrimination

- Review Investigation Report and all evidence
 - This includes watching any video (not just reviewing the summary of the video noted in the investigation report)
- Ask questions, if you need more information, please request it
 - Communicate questions through the CC, not directly to the Investigator
- Focus on factual relevance to the allegations
- Use standard selected by district – preponderance of evidence
- Consider all relevant evidence without bias
- Make objective findings of facts based on the evidence
- Determine responsibility
- Draft written determination
 - Findings: Behavioral Allegations
 - State rational for finding of each allegation
 - Findings: Alleged Policy Violation
 - Sanctions (disciplinary) and remedies (not disciplinary), if applicable

Decision Making Analysis: Title IX

Apply the Findings of Fact (behavioral findings) against the policy based on federal law!

- If a behavior allegation of Sexual Assault, Domestic/Dating Violence, Stalking, and/or Fondling is found to be true, this violates Title IX.
- If a behavior is found to be quid pro quo, it violates Title IX.
- If a behavioral allegation is Hostile Environment Sexual Harassment, the Decision Maker must assess, if the behavior is determined to be true, was that behavior unwelcome conduct determined by a reasonable person to be:
 - **Objectively Offensive:** a reasonable person in the complainant's position must find the conduct to be offensive **and**
 - **Pervasive:** repeated or be widespread (not just a single isolated incident **and**
 - **Severe:** subjectively to the complainant and objectively to a reasonable person **and**
 - **Effectively denies equal access** to the District's education or work program or activity
 - If **All** criteria is met, then the behavior violates Title IX.
 - Even if all but one of the criteria is determined to be valid/true, then the behavior does NOT violate Title IX.

Decision Making Analysis: Discrimination

Apply the Findings of Fact (behavioral findings) against the policy (also based on federal law)

- Assess **Intent** and **Impact**
- To do this, per AC R 1 and AC R 2, you may consider:
 - i. the degree to which the conduct affected the complainant's ability to participate in or benefit from the school environment;
 - ii. the type, frequency and duration of the conduct, recognizing that a single incident may rise to the level of harassment;
 - iii. the identity of and relationship between the respondent and the complainant;
 - iv. the context of the incident, including school size and location of the incident and/or other incidents at the school;
 - v. whether the conduct was threatening;
 - vi. the use of epithets, slurs or other conduct that is humiliating or degrading;
 - vii. whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class;
 - viii. ages and number of respondents and complainants involved;
 - ix. patterns of misconduct of the respondent;
 - x. real or perceived power differentials between the parties;
 - xi. any other relevant circumstances.

Decision Making Analysis: Title IX & Discrimination

Apply the Findings of Fact (behavioral findings) against Colorado Law (a lot of overlap with federal law and District policy)

Colorado Law: C.R.S. Section 22-1-143 - Harassment or discrimination

“Harassment or discrimination” means to engage in, or the act of engaging in, any unwelcome physical or verbal conduct or any written, pictorial, or visual communication by a student or employee that is directed at a student or group of students because of that student’s or group’s membership in, or perceived membership in, a protected class, which conduct or communication is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute harassment or discrimination and constitutes harassment or discrimination if:

- Quid Pro Quo, or
- Submission to, objection to, or rejection of the conduct or communication is used or explicitly or implicitly threatened to be used as a basis for educational decisions affecting the individual; or
- The conduct or communication has the purpose or effect of unreasonably interfering with the individual’s access to their educational service, opportunity, or benefit or creating an intimidating, hostile, or offensive educational environment; or

Continued on next slide

Decision Making Analysis: Title IX & Discrimination (Continued)

Apply the behavioral finding against Colorado Law (a lot of overlap with federal law and District policy)

Colorado Law: C.R.S. Section 22-1-143 - Harassment or discrimination

Petty slights/ annoyances do not rise **Unless** combined with other items in this list:

- Frequency of the communication (single incident may rise)
- Number of individuals engaged in the conduct
- The nature, duration, and location of the conduct or communication
- If the conduct or communication is threatening or includes an act of violence
- Power differentials
- Use of epithets, slurs, or conduct that is humiliating or degrading
- If the conduct reflects stereotypes about an individual or group in a protected class

Note: A lot of CO law and Federal law overlap. This is outlined in the templates for you!

Decision Making: Notice of Determination - Discipline & Remedies

- Discipline (recommended sanctions)
 - For students: Matter referred to student conduct for disciplinary action.
 - For staff: Matter referred to supervisor/Human Resources for disciplinary action.
- Remedies (non-disciplinary)
 - Should be listed for the Complainant if you determine that discipline is appropriate for the Respondent

Appeal Administrator

A party submitted an appeal. Now what?

Appeal Process

How an appeal is submitted and what happens next:

- The decision maker report includes information about filing an appeal.
- An appeal must be submitted to the Compliance Coordinator.
- Appeal Administrator must also be free from bias or conflict of interest.
- All information, the appeal and any responses to the appeal request, will be sent to the Appeal Administrator.

Appeals Overview (Title IX only)

Appeal Administrator: Role & Responsibilities

- If you are appointed as an Appeal Administrator, you need to assess:
 - **Appeal Request:** Is the appeal submitted on one of the three approved grounds?
 - Procedural irregularity that would have likely affected the outcome and/or
 - New evidence that was not reasonably available at the time of the investigation and that would have likely affected the outcome
 - Ex: A witness comes forward with video evidence that was not known about
 - Conflict of interest or bias in the (CC), (I), or (DM) that would have likely affected the outcome
 - Ex: Investigator and guardian of Complainant are best friends
- If the appeal request does not meet the criteria above, decline to hear the appeal.
- If the appeal request meets the criteria above, continue with the appeal process.

Appeal Review and Outcome

Appeal Review

- **Appeal:** Review the appeal, all responses to the appeal, and make a final determination
 - You can ask for additional information if necessary to your analysis/ decision.
 - Do you need more information?
 - What is your decision?
 - What is your justification?

Appeal Outcome

- Document your decision
- Document your justification

Questions??

We are here for you! Today and beyond!