

**From:** Josh Ricks  
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**Subject:** Written Comment: Title IX Public Hearing on Sexual Harassment  
**Attachments:** Title IX Sexual Harassment Letter.docx

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Hello,  
Here are some of my thoughts and comments regarding my experience handling Title IX investigations at my school this year. Please feel free to contact me with any questions you may have. Thank you!

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Josh Ricks  
Assistant Principal  
South Jordan Middle School  
801-412-2900

## Sexual Harassment Letter

Acting Assistant Secretary Suzanne Goldberg  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20002

June 11, 2021

Re: Written Comment: Title IX Public Hearing (Sexual Harassment in K–12 Schools)

Dear Acting Assistant Secretary Goldberg,

As a school leader and member of the National Association of Secondary School Principals (NASSP), I write to submit the following comments for the virtual public hearing on strengthening enforcement of Title IX of the Education Amendments Act of 1972.

I work at South Jordan Middle School in South Jordan, Utah, a suburb of Salt Lake City. We serve around 1,350 students in grades 7-9. This school year, we have had to deal with four different Title IX cases, two of which were involving the same student. When our first incident happened in February 2021, we felt completely unprepared. My principal and I attended a virtual Title IX training in August 2020, but the process seemed so complicated that the main takeaway I got from the training is to call my district Title IX coordinator to talk through the process if we ever had a case involving sexual harassment. As it turns out, we were the first Title IX case in the district so our coordinator had to figure it out along with us as we tried to fumble our way through our investigation.

Nothing about our investigations has felt efficient, effective, or beneficial for students. As we began our first investigation, we were baffled at the idea that we could not impose a gag order, where we would tell a student to not talk about the situation with their friends, and issue consequences if they do. All we could do is recommend that students not talk about it. Unfortunately, middle school students talk about juicy gossip and rumors about the situation began spreading rapidly throughout the school. It got so bad that our complainant no longer wanted to come to school. As administrators in the building, our hands were tied and we could not do anything to help our student. As these rumors spread, more students came forward to tell us about things that have happened to them, which led to our second Title IX case. Again, rumors spread unabated because we were not able to require students to stop talking about it.

In our third case, a male student touched a female student's chest, unwanted by her, three times in one class period, twice over her shirt and once under her shirt. This was done in full view of about a third of the class. Our female student's mother did not want to file a formal Title IX complaint, so no official investigation was conducted. As a result, we as school administrators could not take any punitive measures against this male student, even though he admitted to touching the other student. Neither family wanted any other supportive measures, so the two students remained in the same classroom

together. I felt sick that a student can admit to touching a girl so inappropriately and I was powerless to do anything about it due to the Title IX regulations in place.

About six weeks later, this same boy was seen touching himself inappropriately. This happened in the same history class where he touched the girl. Again, nobody wanted to file a formal Title IX complaint, and the student withdrew from the school shortly after this incident occurred, but we were unable to take any action to help protect our students who have been victimized by this boy's behavior.

These new Title IX regulations have felt overly burdensome and ineffective for K-12 schools. My administrative team has spent countless hours investigating, writing reports, and trying to navigate the red tape surrounding the Title IX process, all at the expense of the other 1,348 students in the school. We have neglected other important responsibilities, such as classroom observations, teacher evaluations, supervision assignments, etc. in order to complete one investigation. We began investigating our first case at the end of February 2021 and we are still not done after over 100 days. Normally we would handle a situation of this magnitude in less than a week. Typically, we investigate allegations of this nature in conjunction with our school resource officer, who handles any criminal elements of a situation, and we handle the school side. Because of these new regulations, our resource officer could not wait for us so he had to move forward without us. This led to students being pulled out of class multiple times to be questioned by the police and school administration, and students and parents became very frustrated with how much class the students are missing. We have permanently ruined relationships with students and families, we have neglected other students who need our help, and we have put undue burdens on others who are trying to cover for us as we are tied up with the Title IX process. This process needs to improve so that we can do what is right and best for kids.

In joint comments submitted with AASA: The School Superintendents' Association, NASSP urged the Department of Education to immediately rescind the 2020 amendments to the Title IX regulations and replace them with nonbinding guidance for K-12 schools, technical assistance, and best practices to ensure the fair, prompt, and equitable resolution of reports of sexual harassment and other sex discrimination. Their comments focused on three major issues with the 2020 amendments:

- 1) School leaders are unable to swiftly remove students from harmful educational environments because of paperwork, evidence, and notice requirements in the regulation. In the past, we relied on previous federal Title IX guidance to develop and solidify procedures to ensure that all Title IX complaints were addressed in an efficient fashion that offered fair protections for both the accuser and the accused. The new multilayered adjudicative process is an overwhelming undertaking for staff and frequently requires 80-90 days to complete. There is also a striking difference in how school leaders can discipline students for incidents of sexual harassment versus any other school infractions, which has infuriated parents, led to further traumatization of students, and greatly frustrated our staff who want to effectively address potential Title IX violations quickly.
- 2) The staffing required to conduct an investigation of sexual harassment is another challenge for school leaders. In addition to having a Title IX coordinator in each school building, there are various roles that must be assigned to other trained personnel on a case-by-case basis (investigators, initial decision makers, appellate decision makers) who are all free of "bias"

toward or against victims and accused students. While the provision requiring neutrality with respect to the process is generally quite appropriate, mandating that every individual tasked with responsibility in a Title IX case be unbiased and therefore viewed by *parents* as neutral with respect to the individual complainant and respondent in every case may not be practical in many smaller or more rural K–12 schools. Any individual likely tasked with the responsibility either of conducting an investigation or rendering a decision at either the initial stage or appellate stage will be someone who has experience and/or prior responsibility in a building where they connect with the students involved.

- 3) A further problematic aspect of the regulation is around the disclosure of confidential information. Students are not aware that by reporting an assault to a school counselor or social worker that they are automatically triggering a Title IX complaint and subsequent investigation. School leaders also feel that the new requirements do not allow us to protect witnesses. In other discipline incidents, we are able to issue a gag order and consequences for students who do not comply. Now we are only able to suggest that students not share information, but with no enforcement mechanism in place, this could have a negative impact on the investigation. School leaders should have a mechanism for confidential reporting to an adult who is not a mandatory reporter so that students can receive supportive measures, including mental health counseling, without disclosing their identity to their harasser, initiating a Title IX investigation against their harasser, or initiating a mandatory report by the school to local police.

Thank you for taking the time to engage stakeholders in a discussion on these important issues. Should you have any questions, please feel free to contact me at [joshua.ricks@jordandistrict.org](mailto:joshua.ricks@jordandistrict.org).

Sincerely,

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