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## **Title IX Problems for K-12 Schools**

These are some of the new regulations that make the whole process more difficult.

### **Length of time**

- Send notice to all parties to be interviewed.
- Forward all evidence to all parties and have 10 days to review
- Forward investigative report to all parties and have 10 days to review
- Decision process can be lengthy due to each party being able to submit questions to both sides.
- Then there is an additional follow-up question and answer process.
- Decision makers issue written determination of responsibility. Whole process can become lengthy in time especially for K-12 schools.

Previously, a potential Title IX complaint was filed at the school. The Title IX team member would interview the complainant and witnesses. They would then check for any evidence or other witnesses. They then would interview the alleged respondent. If there is enough evidence to be able to substantiate the claim, then discipline administered. Often they would check with the Title IX Coordinator to see if anything further should be done. These would normally be handled within 1-2 days, sometimes 1-2 hours. Now the same investigation that was being done with-in a few days is now lasting anywhere from 30-60 days. The team at the school would send the documentation to the Title IX Coordinator to review and file away.

### **No discipline can be administered till process is complete**

- Some students, especially in elementary and middle school may not even remember what occurred 30-60 days ago and are now being disciplined for

it. It is not fair to the respondent to be waiting for what's to come. It is not fair for the complainant to be waiting for the process to occur. No justice for anyone in this process.

- Schools must conduct a threat assessment before removing an accused student from the school pending a decision in a Title IX case. Schools must also create a process for the accused student to immediately challenge his or her removal from campus. Previously, this would only be done if warranted. Supportive measures were always being utilized.

### **Direct evidence, still have to go through process**

- If one has video evidence of a dating violence issue or a grabbing of a breast etc. still by Title IX Regulations have to go through the whole process. If on video or have staff members who witness the incident, we should not have to wait 30-60 days for a conclusion. If there is no doubt it occurred and have direct evidence, then it should be handled immediately and discipline administered.

### **Broad definition of sexual harassment**

- The definition of Sexual Harassment has become way to broad.
- The “unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity” is stricter than in other laws
- Under the definition of sexual harassment, you have the definition of sexual assault which includes fondling. There’s really no really good definition of fondling. Is an elbow to the breast, slap to a butt, a grab of a private all considered fondling? And all of that must be handled through the entire process to reach a resolution.
- Under the definition of sexual harassment, you have listed Dating violence and Domestic violence. It’s crazy these were added to Sexual Harassment. Normally if there was dating violence there would be witnesses potentially adult witnesses or video evidence (Direct evidence). Law Enforcement would more than likely be involved. Why would you need to go through such a lengthy process to address this issue?

- Under the definition of sexual harassment, you have listed Stalking. Stalking is not as big of an issue in K-12 schools. But if there actually was an issue we would or should have direct evidence and be able to handle it accordingly. Again, this should not have been added to the definition of Sexual Harassment. Why would you need to go through such a lengthy process to address this issue?

### **Some other issues I see:**

- Formal complaint process same for employees. It doesn't make sense to have to go through the same lengthy process including questions and answers if an employee is subject to the Title IX process. All schools in K-12 of some kind of employee discipline process.
- There is no justice in such a lengthy process. It is not fair to either party. I have heard that it provides Due Process for the accused. However, that can be obtained through simpler processes. Both the complainant and respondent will continue to go to school and be around each other in some format with this process still looming and both awaiting a decision. These incidents would normally have been handled and if proof, discipline administered. Instead, now they may have to wait 30-60 days or longer or even wait till the next year to see what if any determination be made. Law Enforcement investigations often don't take 30-60 days to conclude. Charges may be filed and may have to await determination but the complainant isn't usually around the alleged suspect day in day out like they are in a school environment.
- The Title IX process needs to be updated and replaced as a whole. There is no reason why an investigation and conclusion for less serious day to day issues be handled by the school staff. These can be within hours to a day or two. If Law Enforcement is involved, or if it is a more serious matter, then bring in a Title IX Coordinator/Investigator for a formal investigation. That Coordinator/Investigator could assist the team or take over if needed. Not all Title IX investigations at the K-12 school environment need formal and lengthy investigation. As long as everyone is functioning under the same regulations that you have the opportunity to create and address on how to investigate and the process it shouldn't matter if the investigation can be concluded in hours or 60 days. If it's not a complicated investigation, it shouldn't have to continue on with the lengthy process. Especially if there is

direct evidence or no way that any further evidence will be discovered. In my experience it also gives time for statements to be rehearsed or convoluted or additional witnesses to be developed when they would not have been involved or the incident they report wouldn't have occurred or would not have been relevant if the conclusion and discipline had been already administered.

**These Title IX Regulations are for college environment incidents (especially dorm rooms incidents) then the hallways of K-12 schools.**

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