



Lozano Smith
ATTORNEYS AT LAW

Foundations of Title IX 2024 Regulations

Presented by: Sarah E. Fama and Monica Batanero

Lozano Smith Webinar
August 15, 2024

Sarah E. Fama

Senior Counsel



Walnut Creek Office
sfama@lozanosmith.com
925.953.1620

Overview

Sarah E. Fama is Senior Counsel in Lozano Smith's Walnut Creek office. She represents public agencies through various aspects of employment and general liability issues.

Experience

Ms. Fama represents public employers at California Superior Court, California Labor Commission, California Unemployment Insurance Appeals Board, California Workers' Compensation Appeals Board, Department of Fair Employment and Housing, and Equal Employment Opportunity Commission. She regularly defends employers against claims of harassment, discrimination, wrongful termination, and wage and hour violations. Clients seek her out to provide guidance, education and training to employers regarding employment law compliance, in areas of harassment, discrimination, separation, accommodation, and wage and hour compliance.

She is routinely involved in investigations, either by guiding employers through the investigation process or by acting as an investigator herself. She also advises employers and provides training on various topics including investigations, Title IX, sexual harassment, Uniform Complaint Procedure, retaliation, discrimination and other complaints that may arise in an education setting.

Education

Ms. Fama received her Juris Doctor degree from the University of the Pacific, McGeorge School of Law, where she was named to the Dean's Honor List. Her J.D. concentration was focused on International Legal Studies. She earned her Bachelor of Arts in Sociology from the University of Alberta.

Practices

Labor & Employment
Litigation
Title IX
Investigations

Education

J.D., University of the Pacific,
McGeorge School of Law
B.A., University of Alberta

Admissions

California

Monica D. Batanero

Senior Counsel



Los Angeles Offices
mbatanero@lozanosmith.com
213.929.1066

Overview

Monica D. Batanero is Senior Counsel in Lozano Smith's Los Angeles office. Ms. Batanero advises educational institutions on student, special education and personnel issues.

Experience

Ms. Batanero provides legal counsel to community college districts and K-12 school districts on day-to-day issues involving Title IX compliance, sexual harassment, discrimination/harassment, Section 504, IDEA, governance, Public Records Act, and student discipline. She regularly conducts workplace and school investigations involving alleged misconduct in violation of board policy and/or law, including Title IX, sexual harassment, professional standards, and code of student conduct.

Ms. Batanero has represented school districts in all phases of special education matters, including Individualized Education Plan meetings, resolution meetings, mediations, and due process hearings conducted by the Office of Administrative Hearings.

She also frequently develops and provides trainings to clients on Title IX, Section 504, IDEA, workplace and school investigations, sexual harassment prevention, student discipline, and first amendment issues.

Education

Ms. Batanero earned her Juris Doctor from the University of San Francisco, School of Law. She earned both an M.S. and B.S. in Gerontology from the University of Southern California.

Practices

Student
Special Education
Labor and Employment
Investigations

Title IX
Governance

Education

J.D., University of San Francisco, School of Law
M.S., University of Southern California
B.S., University of Southern California

Admissions

California

WHO WE ARE & WHAT WE DO

Lozano Smith is a full-service education and public agency law firm serving hundreds of California's K-12 and community college districts, and numerous cities, counties, and special districts. Established in 1988, the firm prides itself on fostering longstanding relationships with our clients, while advising and counseling on complex and ever-changing laws. Ultimately, this allows clients to stay focused on what matters most – the success of their district, students and communities they serve. Lozano Smith has offices in eight California locations: Sacramento, Walnut Creek, Fresno, Monterey, Bakersfield, San Luis Obispo, Los Angeles, and San Diego.

AREAS OF EXPERTISE

- Administrative Hearings
- Charter School
- Community College
- Facilities & Business
- Governance
- Investigations
- Labor & Employment
- Litigation
- Municipal
- Public Finance
- Public Safety
- Special Education
- Student
- Technology & Innovation
- Title IX

COST CONTROL is important for public agencies and an area we have mastered. We recognize and understand your financial restraints and work tirelessly to provide the best legal representation with those limitations in mind. One of the best ways we keep legal costs to a minimum is through strategic, preventive legal services. These include Client News Briefs to keep you updated on changing laws affecting education. In addition, we offer extensive workshops and legal seminars providing the tools needed to minimize liability, reducing the need for legal assistance down the road.

CLIENT SERVICE is our top priority and we take it very seriously. With premier service as the benchmark, we have established protocols and specific standards of practice. Client calls are systematically returned within 24 hours and often sooner when required.

DIVERSITY IS KEY and we consciously practice it in all that we do. It is one of our core beliefs that there is a measurable level of strength and sensitivity fostered by bringing together individuals from a wide variety of different backgrounds, cultures and life experiences. Both the firm and the clients benefit from this practice, with a higher level of creative thinking, deeper understanding of issues, more compassion, and the powerful solutions that emerge as a result.

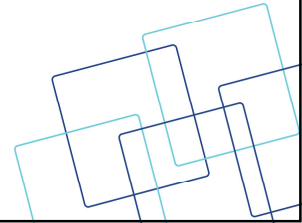


Foundations of Title IX 2024 Regulations

Presented by: Sarah E. Fama and Monica Batanero

August 15, 2024

Lozano Smith Webinar



1

Presenter

Sarah E. Fama

Sarah E. Fama is Senior Counsel in Lozano Smith's Walnut Creek office. She represents public agencies through various aspects of employment and general liability issues. Ms. Fama represents public employers at California Superior Court, California Labor Commission, California Unemployment Insurance Appeals Board, California Workers' Compensation Appeals Board, Department of Fair Employment and Housing, and Equal Employment Opportunity Commission. She regularly defends employers against claims of harassment, discrimination, wrongful termination, and wage and hour violations.



CONNECT

sfama@lozanosmith.com

925.953.1620



2

2

Presenter

Monica D. Batanero

Monica D. Batanero is Senior Counsel in Lozano Smith's Los Angeles office. Ms. Batanero represents California public school districts, county offices of education, and community college districts in all aspects of education law. She is co-chair of the firm's Title IX Practice Area and specializes in Title IX compliance, as well as conducting complex investigations into claims of sexual misconduct and harassment (including Title IX), discrimination, bullying, retaliation, and other issues that may arise in an educational setting. Ms. Batanero also specializes in student discipline and special education.



CONNECT

mbatanero@lozanosmith.com
213.929.1066



3

3



Topics

- Compliance by August 1, 2024
- Scope of 2024 Title IX Regulations
- Definitions to Know
- Responding to Complaints
 - Initial Evaluation
 - Supportive Measures
 - Informal Resolution
 - Investigation Procedures
 - Appeals
- Pregnancy and Parenting

4

4

Your Position

What is your position?

1. Site Administrator
2. Director
3. Supervisor
4. Title IX Coordinator
5. Other



Experience With Title IX

Have you been involved in a formal Title IX investigation since 2020?

1. Yes
2. No



Title IX Role

What is/will be your role in the Title IX team, if you know?

1. Title IX Coordinator
2. Investigator
3. Decision Maker
4. Appeals Officer
5. Informal Resolution Officer
6. Implement/Modify/
Terminate Supportive
Measures
7. Other
8. Unknown



Compliance by
August 1, 2024

The 2024 Regulations are NOT Retroactive

- Only applies to sex discrimination that occurred on or after August 1, 2024.
- All incidents that take place on or before July 31, 2024, must be processed through the 2020 Title IX Regulations.



9

9

Policies/Procedures

Adding and Updating

- Add/update for 2024 Title IX Regulations
- 2020 Title IX Regulations still in effect



Compliance by August 1, 2024



10

10

Notice of Nondiscrimination

Must be posted on:

- Website
- Handbook
- Other means of notifying students/parents/employees etc.



Compliance by August 1, 2024



§106.8(c)(2)

11

11

Trainings

1. All employees
2. Investigators, Decision-makers, Informal Resolution Officers and persons implementing supportive measures (All Supervisors)
3. Title IX Coordinators and designees



Implementation August 1, 2024



§106.8(d)

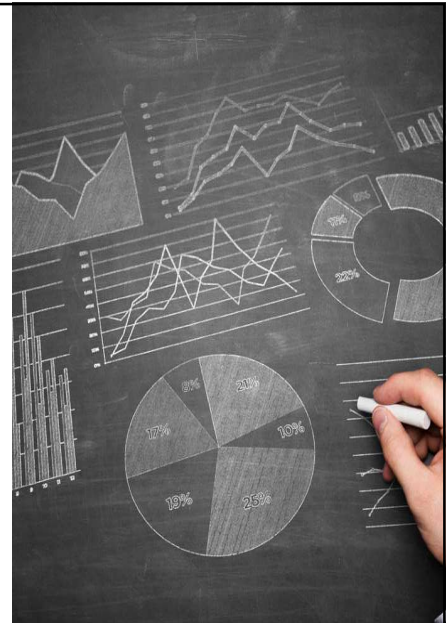
12

12

Knowledge Check

Before you came to this presentation, you were working on a Title IX investigation from a complaint that came in on June 6. Now that you know all about the 2024 regulations, should you adjust your current investigation to comply with the 2024 regulations?

1. Yes
2. No



13

13

Scope of the 2024 Regulations

14

Scope of Sex Discrimination

- Title IX prohibits sex discrimination.
- Includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.



34 C.F.R. § 106.10



15

15

Definition of Sex-Based Harassment

- Quid Pro Quo
 - Employee, agent, person authorized by the District
- Hostile Environment Harassment (“HEH”)
 - Is subjectively and objectively offensive and is so severe *or* pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity
- Sexual Assault, Dating Violence, Domestic Violence, and Stalking



34 C.F.R. § 106.2

16

16

Sex-Based Harassment - HEH

Factors to consider:

- Affect on the Complainant's ability to access the district's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles, previous interactions, and other individual factors;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in program or activity.



34 C.F.R. § 106.2

17

17

Sexual Assault

- Rape
- Sodomy (meaning forcible oral or anal sexual intercourse with a complainant)
- Sexual Assault with an Object
- Fondling
- Incest
- Statutory Rape



34 C.F.R. § 106.2

18

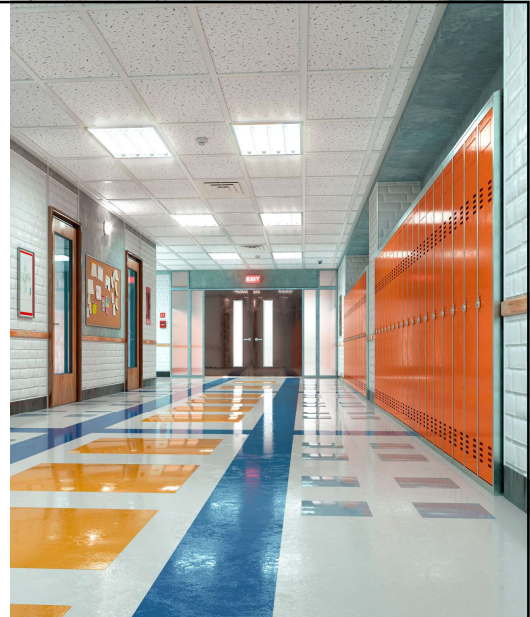
18

Title IX Jurisdiction

Must address all sex discrimination occurring under the district's education program or activity in the United States.

Includes, but not limited to:

- Conduct that occurs in any building owned or controlled by a student org. that is officially recognized by a postsecondary institution; and,
- Conduct that is subject to the recipient's **disciplinary authority**.



34 C.F.R. § 106.11



19

19

Hypotheticals

Example 1

Alex is a volunteer assistant coach for the Hypo High School varsity soccer team this season. As assistant coach, Alex chooses the starting lineup for each game. Alex tells Cameron: "I will put you on the starting lineup for tomorrow's game if you make out with me."

Is this Title IX?

Example 2

Carter is a parent who attends all of the varsity basketball games. He often gives advice to the players on their shooting form but is not a coach. Carter tells Charlie: "I will put in a good word with the coach if you make out with me."

Is this Title IX



20

20

Hypothetical

You are the Title IX coordinator at a small K-8 district. Paige, a 7th grade student, comes to your office and informs you that one of her classmates, Asher, has been making “gross” comments to girls for a couple of weeks. She shows you Asher’s Instagram, which is mostly pictures of guns, scantily clad women, and misogynistic language. Paige says she and her friends are very uncomfortable around Asher, and do not want to be near him.

Is this Title IX?

Do you investigate?



Title IX Jurisdiction vs. Impact

Location and Effect	Is it Title IX?
Off campus conduct with no impact on campus and the District has no jurisdiction in policy	No Title IX Jurisdiction
Off campus conduct with impact that is not a Title IX violation (i.e., complainant is upset by seeing respondent)	No Title IX Jurisdiction, but District must remedy/provide supportive measures
Off campus conduct with impact that is within Title IX (i.e., hostile environment harassment from rumors, bullying, retaliation, etc.)	Yes, Title IX jurisdiction over HEH
Off campus conduct when District has jurisdiction over off campus conduct in policy	Yes, Title IX jurisdiction



Hypothetical: True or False

The District must conduct a Title IX investigation into an incident:

- That occurred between two students over the weekend, at a student's home.
- In which an administrator allows an office manager to leave early and work from home in exchange for the office manager going on a date with the administrator.
- That occurred last year, and the complainant has graduated.



23

23

Hypotheticals

Example 1

Mohammad is walking home from school when Desiree walks up next to him, hits his buttocks, and says *"you lookin' like a whole snack!"* The next day, Desiree follows Mohammad home from school yelling "damn boy, flex for me!" Mohammad tells the Principal about the incidents.

Is this Title IX?

Example 2

Over the weekend, Valentina is sexually assaulted by another student at a local park. When Valentina returns to school, other students call her a "whore" and a rumor is started that she is pregnant. Valentina can't stop crying and hides in the bathroom during school and does not attend class for three days.

Is this Title IX?

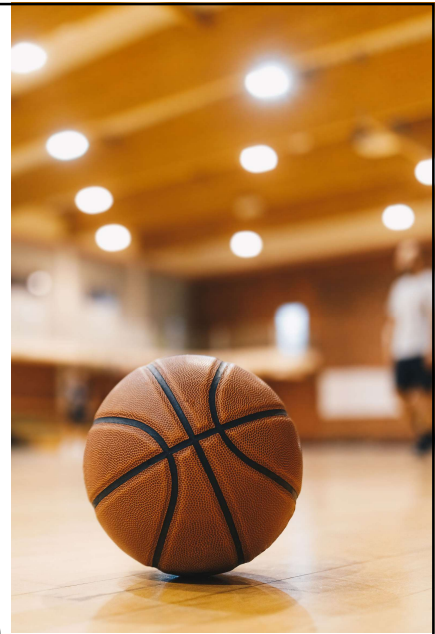


24

24

Sex-Based Distinctions or Separation

- Recipients can impose sex-based distinctions or separation in their educational programs **if they do not impose more than a *de minimis* harm.**
- More than de minimis harm is any harm that is **genuine and objectively non-trivial**, from a reasonable person's perspective.
- Prohibiting a student from participating in an education program or activity consistent with their gender identity **violates this standard** and is thus prohibited.



§ 106.31(a)(2)

25

25

Sex-Based Distinctions or Separation - Exemptions

- Religious institutions
- Military and merchant marine educational institutions
- Social fraternities and sororities
- Housing
- Athletics **



26

26

Definitions To Know

27

2024 Title IX Definitions

Complainant:

- Includes person(s) other than student(s)/employee(s) who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX *at a time when that individual was participating or attempting to participate* in the district's education program or activity.

Respondent

- A person who is alleged to have violated the recipient's prohibition on sex discrimination.



34 C.F.R. § 106.2

28

28

2024 Title IX Definitions

Complaint:

- May oral or written, as long as the complaint can be objectively understood as a request for the district to investigate.

(34 C.F.R. § 106.45(a)(2))

Pregnancy or Related Conditions

- Pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(34 C.F.R. §106.2)



29

29

2024 Title IX Definitions

Retaliation:

- Retaliation means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized to provide aid, benefit, or service, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has participated in any manner in a Title IX process.

Peer Retaliation:

- Peer retaliation means retaliation by a student against another student.



34 C.F.R. § 106.2

30

30

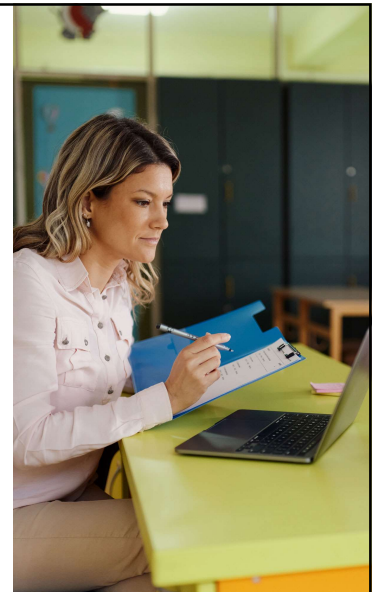
Responding to Complaints

Initial Evaluations

31

Responding to Sex Discrimination

- The District must respond **promptly and effectively** *and must prevent the recurrence* of any sex discrimination and remedy its effects.
- All non-confidential employees must notify the Title IX Coordinator of conduct that could reasonably be considered sex discrimination.
- Title IX reporting is separate from mandated reporting requirements.



34 C.F.R. § 106.44 (c)(2)



32

32

Responding to Sex Discrimination (K-12)

All non-confidential employees must notify the Title IX Coordinator of conduct that could reasonably be considered sex discrimination.

Supervisors must report up to the Title IX Coordinator.



34 C.F.R. § 106.44 (c)(2)



Responding to Sex Discrimination (Higher Ed.)

Employee Role	Disclosure From	Notify TI XC	Provide TI XC's Contact Info
Confidential Employees	<ul style="list-style-type: none"> ▪ Student ▪ Employee 	No	Yes
Employees With Authority To Institute Corrective Measures	<ul style="list-style-type: none"> ▪ Student ▪ Employee 	Yes	Yes
Employees With Responsibility For Administrative Leadership, Teaching, And Advising	<ul style="list-style-type: none"> ▪ Student ▪ Employee 	Yes	Yes
All Other Employees Who Are Not Confidential Employees	<ul style="list-style-type: none"> ▪ Student ▪ Employee 	Yes/Or	Yes/Or

§ 106.44 (c)(2)



Confidential Employees



An employee whose communications are privileged or confidential under Federal or State law or an employee that has been designated as a confidential employee for the purpose of providing services to persons related to sex discrimination.

Must specify who they are in District policies.



34 C.F.R. § 106.2

35

35

Hypothetical

Jesus is a principal at Hypo High School and hears from a teacher, Mr. Snowden, that Raven was raped by Lincoln in the locker room. Jesus knows both of these students personally and believes that it is in the best interest of the students for Jesus to handle this internally.

If Jesus is able to handle the investigation, does Jesus need to notify the Title IX Coordinator?



36

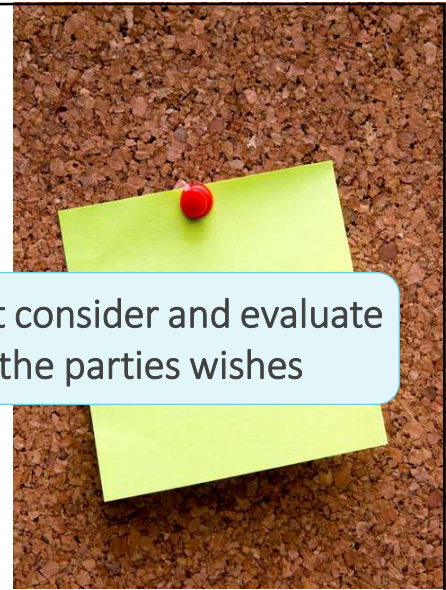
36

Initial Evaluation

Upon notice, Title IX Coordinator must:

- Treat parties equitably
- Supportive measures
- Inform Complainant of processes
- Initiate process

Must consider and evaluate
the parties wishes



34 C.F.R. §106.44(f)

37

37

Confidentiality

Prohibited from disclosing personally identifiable information, **except**:

- Prior written consent
- Disclosure to parent, guardian, or other authorized legal representative with the legal right to receive disclosures
- To carry out Title IX grievance procedure
- As required by law



34 C.F.R. §106.44(j)

38



38

Responding to Complaints


Supportive Measures

39

Supportive Measures

-  Must offer supportive measures to both Complainants and Respondents
-  Parties have the right to challenge supportive measures

§ 106.44(g)



40

40

Supportive Measures

Must be

- Must be designed to protect the safety of the parties or environment
- May be modified or terminated at the end of the resolution process
- May include emergency removal and administrative leave

Must not be

- Must not unreasonably burden either party
- May not be imposed for punitive or disciplinary reasons

§106.44(g) and (k)



41

41

Supportive Measures

Examples:

Counseling
 Change Of Class Or Work Schedules
 Modified Lunch Schedules
 No-Contact Orders
 Campus Escort Services
 Change In Work Locations
 Increased Security/Monitoring
 Extensions Of Deadlines Or Other Course-Related Adjustments
 Independent Study (Must Be Nonpunitive/Nondisciplinary)

**Emergency Removal &
Administrative Leave**



42

42

Hypothetical

A Principal from one of your middle schools calls you after school and tells you that an 8th grade student, June, came to her and told her that a 7th grade student, Cheyenne, has been making her feel uncomfortable at school. June told her that Cheyenne has been staring at her in the locker room, and that one of her friends overheard Cheyenne call her “sexy” when she was changing in the locker room. The Principal is unsure what to do and is looking to you for assistance.

Is this Title IX?

What Supportive Measures Do You Offer?



43

43

Students with Disabilities

K-12

MUST consult with a student’s IEP/Section 504 team

Higher Ed.

MAY consult with the student or office designated to support students with disabilities.



34 C.F.R. § 106.44(g)(6)

44

44

Hypothetical

Isaiah, a junior, comes to you and says that he saw Dallas, a sophomore, forcibly kiss Destiny, a sophomore, several times yesterday out by the bleachers. Today, Isaiah saw Dallas following Destiny to class. Isaiah is worried about Destiny and asks for your assistance. You know that Dallas is on a Section 504 plan and Destiny is on an IEP.

Do you need to consult with Dallas' Section 504 team?

Do you need to consult with Destiny's IEP team?



45

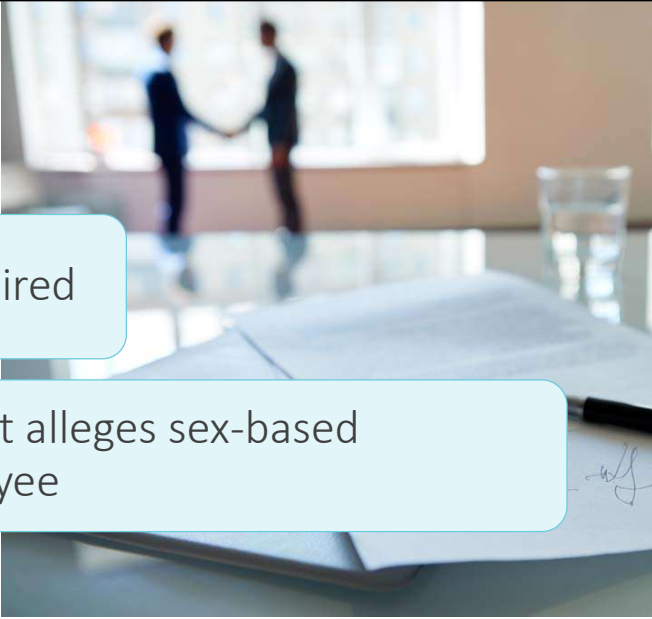
45

Responding to Complaints

Informal Resolution

46


Informal Resolution



Formal complaint not required

Not available when student alleges sex-based harassment against employee

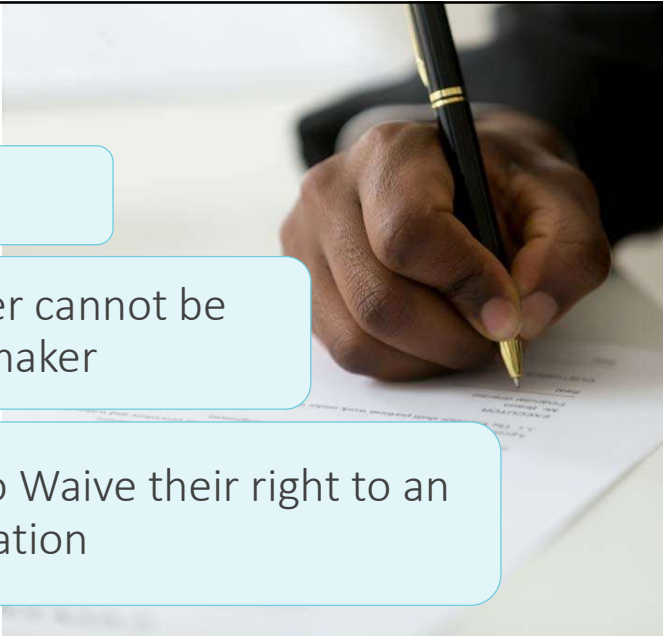
34 C.F.R. § 106.44(k)



47

47

Informal Resolution




Must be Voluntary

Informal resolution officer cannot be investigator or decision maker

Cannot Require a Party to Waive their right to an investigation & determination

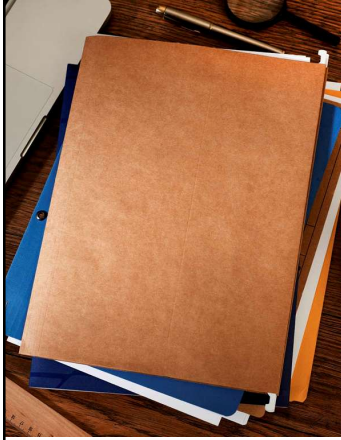
34 C.F.R. § 106.44(k)



48

48

Informal Resolution



- Must provide notice to both parties including:
 - Allegations,
 - Requirements of informal resolution process,
 - Right to withdraw and initiate investigation,
 - Resolution would preclude an investigation,
 - Potential terms of resolution,
 - What information the District will maintain and how the District could disclose such information



34 C.F.R. § 106.44(k)

49

49

Hypothetical



You are a Title IX Coordinator and you are investigating an allegation of sexual harassment between two employees. Both employees agree to informal resolution of the complaint.

Can you facilitate the informal resolution session?



50

50

Hypothetical

Jordan, a 12th grader, comes to you and says that Noah, an 11th grader, has been sexually harassing them for months in person and via text message. This has occurred both on campus during class and off campus after school. Jordan cannot deal with it anymore and wants it to stop. However, Jordan does not want this to be a big deal and just wants to do informal resolution quickly and get it over with.

Can you offer an informal resolution session?



51

51

Discretionary Dismissals

- Title IX Coordinator may dismiss when:
 - District is unable to identify the respondent after taking reasonable steps to do so
 - The respondent is no longer enrolled or employed by the District
 - The complainant voluntarily withdraws any or all allegations
 - The alleged conduct would not constitute sex discrimination, if proven



34 C.F.R. § 106.45(d)

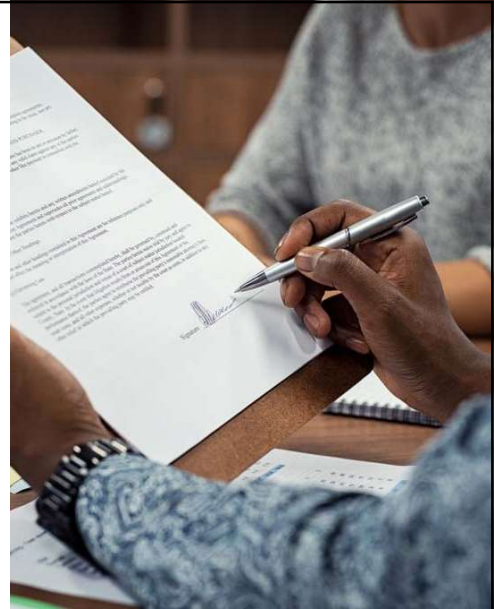


52

52

Discretionary Dismissals

- Must still offer supportive measures to complainant (and respondent as appropriate)
- Take prompt and effective steps to stop discrimination and prevent recurrence



34 C.F.R. § 106.45(d)



53

53

Dismissal Appeal

- Must promptly notify Complainant of basis for the dismissal and opportunity to appeal (notify Respondent if already provided notice of allegations)
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
- Notify the parties of the result of the appeal and the rationale for the result
- Ensure appeal decision-maker did not take part in investigation or dismissal of complaint



34 C.F.R. § 106.45(d)

54

54

Hypothetical

The District receives an email alleging that Mr. Cromwell had a sexual relationship with a student during the summer school program at Hypo High School. You take the initial steps to evaluate the claim and decide to initiate Title IX. You provide a notice letter to Mr. Cromwell. The following day Mr. Cromwell resigns effective immediately.



Do you dismiss the complaint?

Do you take other steps?



Responding to Complaints

Investigation Procedures

Title IX Grievance Procedures

Adequate

Reliable

Impartial



57

57

Grievance Procedures

106.45

- K-12
- Higher Education complaints, except sex-based harassment complaints involving a student

106.46

- Higher Education complaints of sex-based harassment involving a student



58

58

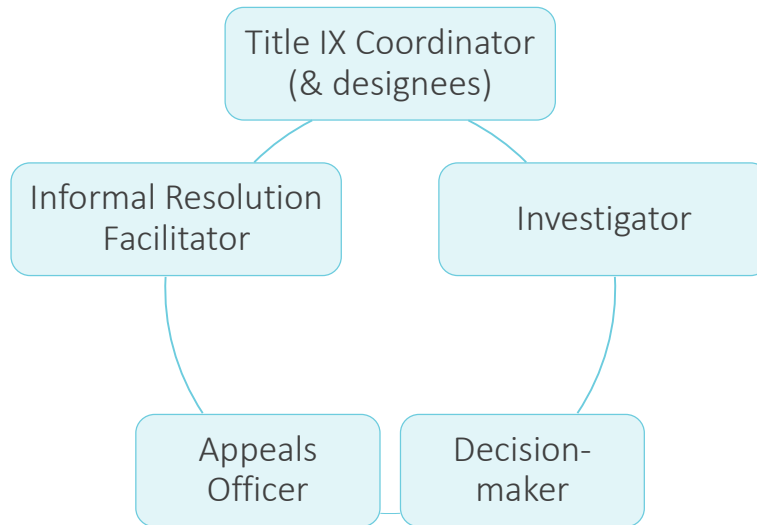
Grievance Procedures – Exchange of Evidence

106.45	106.46
<ul style="list-style-type: none"> ▪ Description of Relevant Evidence <li style="text-align: center;">OR ▪ Access to Actual Relevant Evidence 	<ul style="list-style-type: none"> ▪ Live hearing optional ▪ If conducting a live hearing <ul style="list-style-type: none"> ▪ Provide evidence to review before or during the live hearing ▪ Transcript of DM asking questions

Best Practice:
Investigation Report



Title IX Team



Potential Investigator Models

Name of Model	Process	Options
Single Investigator	T IX Coordinator = Investigator = Decision-maker	Can have someone else sign off on decision
Single Investigator +	T IX Coordinator = Investigator → Decision-maker	Inv. makes recommended findings
Title IX Coordinator/ Decision-Maker	T IX Coordinator → Investigator → T IX Coordinator/Decision-maker	Have Inv. make recommended findings
2020 Regs	T IX Coordinator → Investigator → Decision-maker	Have DM collaborate with Investigator regarding questions DM may have



61

61

Hypothetical

Example 1	Example 2	Example 3
You receive a complaint that an administrator is sexually harassing an employee.	You are a Title IX coordinator at a very small district. The District receives a complaint that a student sexually assaulted another student.	You receive a complaint that a transgender student is being harassed for their gender identity. You are close friends with the parent of the transgender student.

What investigative model do you use?



62

62

Confidentiality

Must take reasonable steps:

- To protect the privacy of the parties and witnesses during the pendency of the grievance procedure
- To prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedure

34 C.F.R. § 106.45(b)(5); 106.45(f)(4)(iii); 106.46(e)(6)(iii)



63

63

Responding to Complaints

Written Determination

64

Written Determination

- Follows an evaluation of all relevant evidence
- Use the preponderance of evidence standard (i.e., more likely than not), unless the recipient uses the clear and convincing evidence standard in other comparable proceedings
- Notify the parties whether sex discrimination occurred to include:
 - The rationale for such determination; and
 - Procedure and bases to appeal, if applicable.



34 C.F.R. § 106.45(h)

65

65

Responding to Complaints

Appeals

66

K-12 Appeal Procedures



- Optional for determinations
- Must be offered if offered in comparable hearings

Check your District's Title IX Board Policies and Administrative Regulations for the Appeal Process



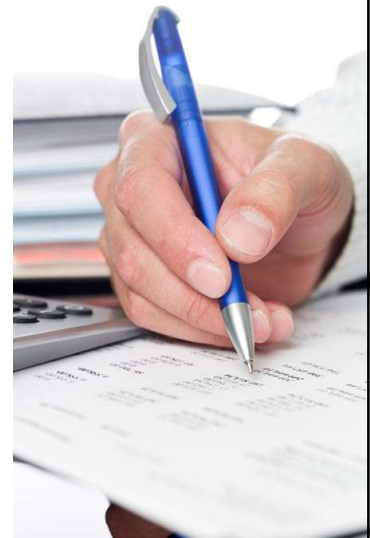
67

67

Higher Ed. Appeals

Appeal of whether sex-based harassment occurred if:

- Procedural irregularity which would change the outcome
- New evidence which would change the outcome
- Title IX Coordinator, investigator, or decisionmaker had a conflict of interest
- [*Additional bases*]



34 C.F.R. § 106.46 (i)



68

68

Reminder
2020 Regs Still Apply

69

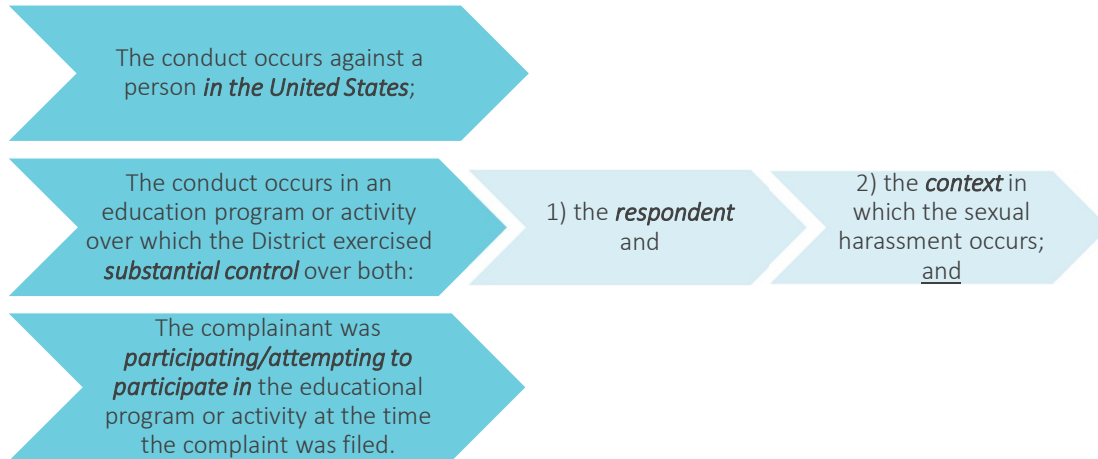
2020 Title IX – Sexual Harassment

Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- An **employee** conditioning the provision of an aid, benefit, or service of the district on the complainant’s participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be **so severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the district’s education program or activity; or
- “*Sexual assault,*” “*dating violence,*” “*domestic violence,*” or “*stalking.*”

70

2020 Title IX Jurisdiction



71

71

Hypothetical

At the start of the 2024-2025 school year, Jin approaches you and asks if you can talk in private. Jin tells you about an incident from March of 2024 involving Arjun. Jin and Arjun were working on a school project in the library after school when Arjun suggested they have sex. Jin said no but Arjun insisted and forced Jin to have sex in the library.

Is this Title IX?

Do You Use the 2020 Regulations or 2024 Regulations?



72


72

Pregnancy and Parenting

73

Discrimination Based on Pregnancy or Related Conditions

- Discrimination Prohibited
- Specific Actions
- Employee Notice Responsibilities



74

74

Pregnancy and Related Conditions – Students



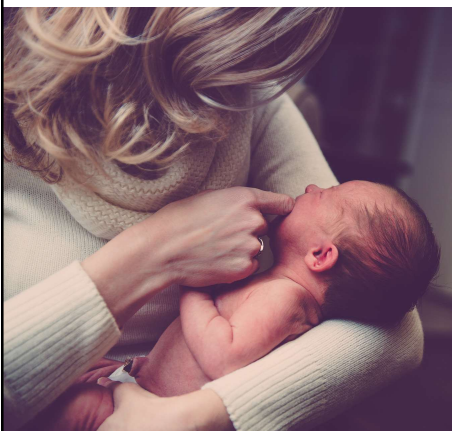
34 C.F.R. § 106.40



75

75

Pregnancy and Related Conditions – Students



- Voluntary access to a separate and comparable portion of the education program or activity
- Voluntary leaves of absence
- Lactation space
- Comparable treatment
- Certification to participate



76

76

Hypothetical

Fatima, a senior at Hypo High School, is 7 months pregnant and attending all of her classes each day. In order to best accommodate her needs, you provided Fatima with the accommodation that she can use the restroom whenever needed, as much as needed. Ms. Chen, Fatima's science teacher, thinks that Fatima is using the restroom too much and declines to allow her to use the restroom during her class.

Does this fall within Title IX?

Have you provided all necessary accommodations?



77

77

Pregnancy and Related Conditions - Employees

- Comparable treatment to other temporary medical conditions for all job-related purposes
- Voluntary leaves of absence
- Lactation time and space



34 C.F.R. § 106.57



78

78

Hypothetical

Josefina comes to you and complains that she is always having to pump in the bathroom at the District office because there is nowhere else for her go. You remind Josefina that there is a lactation space near the lobby but Josefina says that she cannot use it because the keypad is broken and her access code does not work?

Does this fall within
Title IX?

Have you provided all necessary
accommodations?



79

79

Questions



80

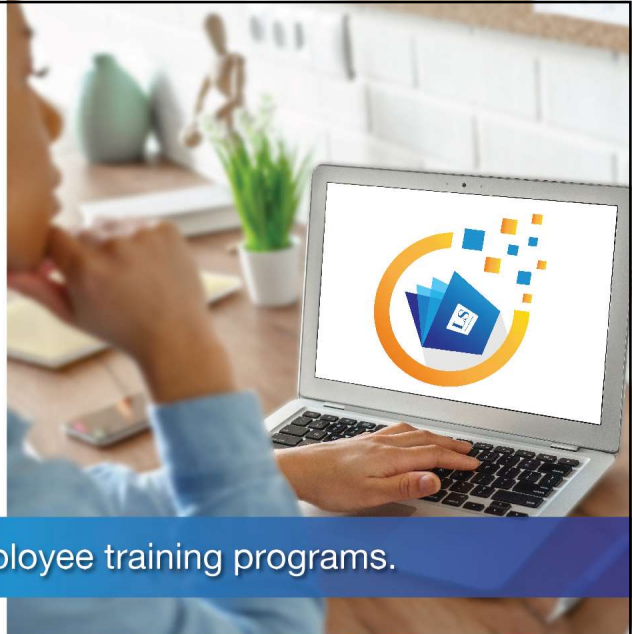
80

Transform Your Training With LSI

Designed to meet the growing list of mandatory employee trainings, Illuminate simplifies the process with on-demand access to essential legal curriculum and compliance reporting.

Featured Courses:

- Title IX All-Employee Training
- Workplace Violence Prevention Program



Your go-to source for streamlined employee training programs.

LS illuminate.lozanosmith.com



81



Thank you from Lozano Smith.

Together with you, we're impacting communities and lives through:

- Professional development
- Volunteer projects
- Sponsorships and award programs
- Scholarships

#BlueHatProject

#LozanoSmithFoundation



82

82



Subscribe on your favorite app or device.



Stay informed on your time.

Lozano Smith Podcast

lozanosmith.com/podcast

83

Contact

For more information, questions and comments about the presentation, please contact:

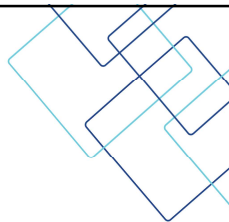
<p>Monica D. Batanero <i>Senior Counsel</i></p>	<p>Tel: 213.929.1066</p>	<p>mbatanero@lozanosmith.com</p>
<p>Sarah E. Fama <i>Partner</i></p>	<p>Tel: 925.953.1620</p>	<p>sfama@lozanosmith.com</p>

Or any of the attorneys in one of our 8 offices.




84

84



@LozanoSmith

Disclaimer: These materials and all discussions of these materials are for instructional purposes only and do not constitute legal advice. If you need legal advice, you should contact your local counsel or an attorney at Lozano Smith. If you are interested in having other in-service programs presented, please contact clientservices@lozanosmith.com or call (559) 431-5600.

Copyright © 2024 Lozano Smith
All rights reserved. No portion of this work may be copied, distributed, sold or used for any commercial advantage or private gain, nor any derivative work prepared therefrom, nor shall any sub-license be granted, without the express prior written permission of Lozano Smith through its Managing Partner. The Managing Partner of Lozano Smith hereby grants permission to any client of Lozano Smith to whom Lozano Smith provides a copy to use such copy intact and solely for the internal purposes of such client. By accepting this product, recipient agrees it shall not use the work except consistent with the terms of this limited license.



Disclaimer:

These materials and all discussions of these materials are for instructional purposes only and do not constitute legal advice. If you need legal advice, you should contact your local counsel or an attorney at Lozano Smith. If you are interested in having other in-service programs presented, please contact clientservices@lozanosmith.com or call (559) 431-5600.

Copyright © 2024 Lozano Smith

All rights reserved. No portion of this work may be copied, distributed, sold or used for any commercial advantage or private gain, nor any derivative work prepared therefrom, nor shall any sub-license be granted, without the express prior written permission of Lozano Smith through its Managing Partner. The Managing Partner of Lozano Smith hereby grants permission to any client of Lozano Smith to whom Lozano Smith provides a copy to use such copy intact and solely for the internal purposes of such client. By accepting this product, recipient agrees it shall not use the work except consistent with the terms of this limited license.