



Title IX Training: 2020 Redux

DUTCHESS BOCES

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Training Agenda:

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2020 Redux

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2020 → 2024 → 2020



HOW DID WE GET BACK HERE?

Title IX

“No person in the United State 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.”

20 U.S.C. §§1681-1688

Tennessee v. Cardona, No. 2:24-00072 (Jan 9, 2025)

- District Court of Kentucky vacated the 2024 Regulations for the following reasons:
 1. The Department of Education applied *Bostock v. Clayton County*, 590 U.S. 644 (2020) too broadly, as Title IX (on the basis of sex, according to the Court discrimination on the basis of being a male or a female) and Title VII (because of sex) are not the same.
 2. First Amendment violation to require an individual to refer to someone by the pronouns or preferred name of the other individual's choice.
 3. The Department did not have the authority to speak on the matter of gender identity as it is not contemplated in the statute.



Effects of Cardona Decision

- Eliminated the 2024 Regulations
- “Effectively” re-implemented the 2020 Regulations
- Eliminated federal protections for students for gender identity (and sexual orientation) under Title IX



Gender Identity

- Protected under the NYS Constitution
-
- Protected under NYS Law
- Dignity for All Students Act
- NYS DOL Sexual Harassment
- Title VII

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KEY TITLE DEFINITIONS AND JURISDICTION

TITLE IX DEFINITIONS: Sexual Harassment

Sexual harassment occurs when conduct on the basis of sex rises to the level of at least one of the following:

1. An employee of BOCES conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (*i.e. quid pro quo*).



TITLE IX DEFINITIONS: Sexual Harassment (cont.)

2. Unwelcome conduct which a reasonable person would determine to be **so severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the BOCES's educational program or activity. (i.e. hostile environment)

Comparing Definitions of Hostile Environment

NY STATE HUMAN RIGHTS LAW

Subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that rises to above the level of what a reasonable victim of discrimination with the same protected characteristic(s) would consider petty slights or trivial inconveniences.

TITLE VII

Severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

TITLE IX DEFINITIONS: Sexual Harassment (cont.)

3. Sexual assault, dating violence, domestic violence, and stalking (on the basis of sex) as defined under federal law (*i.e.* Clery Act and Violence Against Women Act).

Definition: Sexual Assault

- The term “sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation
- 20 U.S.C. 1092(f)(6)(A)(v)

FBI Uniform Crime

Sexual Assault has six sub offenses:

Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.

1. Rape- The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

FBI Uniform Crime

2. Sodomy- Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

FBI Uniform Crime

3. Sexual Assault with an Object- To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the persons will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

FBI Uniform Crime

4. Fondling-The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

FBI Uniform Crime

Sex Offense, Nonforcible: Nonforcible sexual intercourse:

5. Incest-Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by state law.

FBI Uniform Crime

6. Statutory Rape—sexual intercourse with a person who is under the statutory age of consent.

Note—only applies if conduct is consensual with minor. If forced or against the will of victim, revert to Forcible Rape (“Rape”) definition

Definition: Dating Violence

The term “dating violence” means violence committed by a person—

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.

34 U.S.C. 12291(a)(10)

Definition: Domestic Violence

The term “domestic violence” includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

Definition: Domestic Violence

- (A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) shares a child in common with the victim; or
- (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

34 U.S.C. 12291(a)(8)

Definition: Stalking

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

34 U.S.C. 12291(a)(30)



TITLE IX:

Sexual Harassment can occur:

- *Student on Student
- *Employee on Employee
- *Employee on Student
- *Student on Employee

TITLE IX DEFINITIONS:

Actual Knowledge

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the BOCES's Title IX Coordinator or any official who has authority to institute corrective measures.

- (1) witnesses sexual harassment first-hand,
- (2) hears about an allegation of sexual harassment from any source; or
- (3) receives a complaint about sexual harassment by any means (e.g., written, verbal, electronic)

Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

TITLE IX JURISDICTION: Education Program or Activity

- A BOCES is required to respond, under Title IX, to those allegations of sexual harassment where:
 - A. The BOCES exercises **substantial control over both the respondent** (i.e., the person accused of sexual harassment) **and the context** (e.g., school setting, or school sponsored event) in which the harassment occurred; and

TITLE IX JURISDICTION: Education Program or Activity

- B. At the time of the alleged sexual harassment, the complainant (i.e. the alleged victim of sexual harassment) must be:
- (1) in the United States, and
 - (2) trying to access the BOCES's educational program or activity.



NOTE:

Title IX is specific. There are a number of inappropriate behaviors that are in violation of the Code of Conduct or other parts of the BOCES's sexual harassment policy. Those should be investigated. However, not under the Title IX process.



RETALIATION IS PROHIBITED

- Title IX prohibits retaliating against anyone involved in a related investigation, complaint, or proceeding.
- Retaliation is anything that would preclude an individual from bring forward a complaint or participating in a formal grievance process in any role and any harmful behavior as a result.

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NOTIFICATION REQUIREMENTS



POLICY AND GRIEVANCE PROCEDURE

- *Post policy and grievance procedure (one click away)
- *Title IX Coordinator Contact Information
- *Post training materials
- *Enrollment application materials
- *Employment application materials
- *Handbooks, manuals, CBA's etc.

NOTIFICATION

Every step of the Title IX process requires notification, including:

- *Notification of Allegation
- *Notification of Appointment of Title IX Investigator
- *Notification of Interview and Collection of Evidence
- *Notification of Appointment of Title IX Decision Maker(s)
- *Notification of Appeal

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KEY PLAYERS

Team Members

1

Title IX Coordinator
*Intake
*Notices

2.

Investigator
*Investigate
*Preliminary
Investigation File
Shared with
Parties
*Final Investigation
Report Shared
with Parties.

3.

**Title IX Decision
Maker**
*Question/Answer
*Relevancy

4.

**Appeals Decision
Maker**
*Limited reasons

5

**Informal Resolution
Facilitator**
*Written, voluntary,
consent



Title IX Coordinator

Norah Merritt

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Poughkeepsie, NY 12601

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Key Players

Each person must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

*Reasonable person standard/not materially affect outcome



Perception plays a role as well

Perception and Perspective

Based upon lived experience

Have checkpoints in the process

Work with legal to ensure an objective view

5

TITLE IX GRIEVANCE PROCEDURE OVERVIEW

Standard of Proof

- The BOCES must have one standard of proof and apply it in all Title IX determination decisions (student and employee)

PREPONDERANCE OF THE EVIDENCE

Meaning, the fact to be proven is more probable than not to have occurred.

- ▶ the fact to be proven is more probable than not to have occurred.

Intake Process

Actual Knowledge



Title IX Coordinator Intake

- *Offer Supportive Measures
- *Explain the Title IX Policy and Grievance Procedure
- *Option of and how to file a “formal” complaint
- *Document, among other things, bullets 1-3 above on a Title IX log.

Formal vs. Informal Complaints

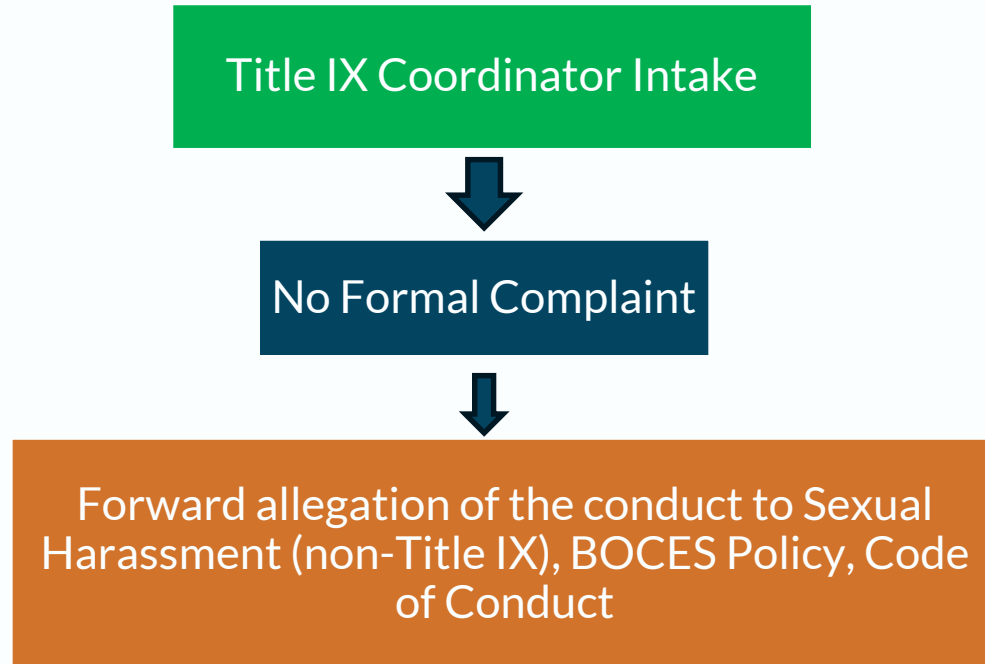
Title IX Coordinator Intake
(Supportive Measures,
Grievance Process, Options)

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graph TD; A["Title IX Coordinator Intake  
(Supportive Measures,  
Grievance Process, Options)"] --> B["No Formal Complaint"]; A --> C["Formal Complaint"];
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No Formal
Complaint

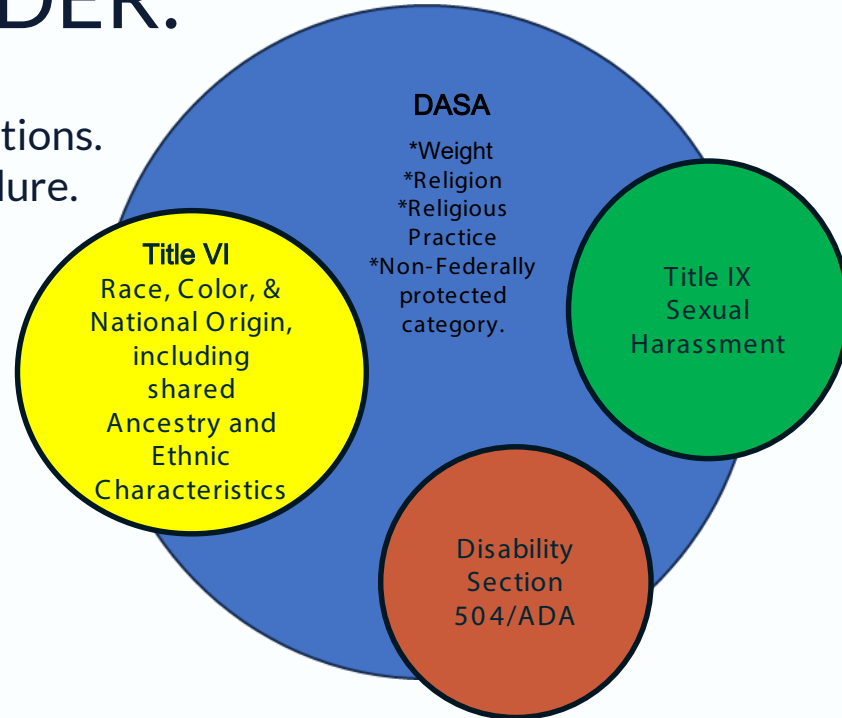
Formal
Complaint

No Formal Complaint



DIGNITY FOR ALL STUDENTS ACT ("DASA") REMINDER:

All deserve due process investigations.
Follow the more stringent procedure.
One investigation, two or more
decisions.





Emergency Removal

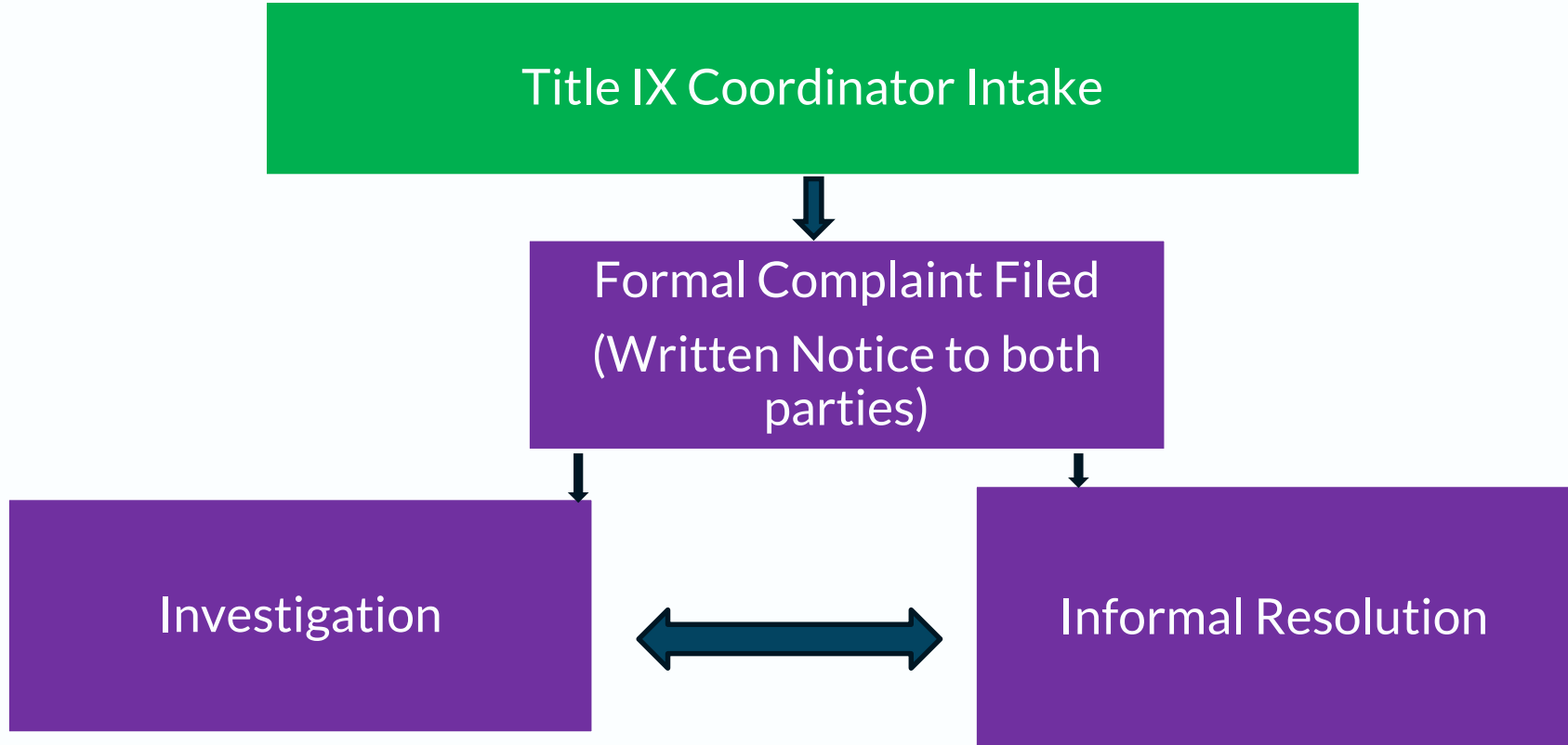
- Individualized safety and risk analysis
- Determination that the respondent is an immediate threat to the physical health or safety of any student or other individual from the allegation of sexual harassment
- Provide Respondent with notice and the opportunity to challenge the decision immediately following removal.



Informal Resolution

- Each party must provide voluntary, written consent to participate in the informal resolution process.
- May occur any time prior to reaching a determination of responsibility.
- May not be used for complaints of Employee wrongdoing towards a student under Title IX and not recommended for sexual violence.

Formal Complaint Filed



Informal Resolution (cont.)

- The BOCES must provide:
 - (1) Written notice of the allegations
 - (2) The requirements of the informal resolution process, including that:
 - (a) once an agreement is made the parties may not resume the formal complaint process, and
 - (b) anytime prior to an agreement either party may withdraw from the informal process and resume the formal process.
 - (3) Any consequences resulting from participating in the informal resolution process, including records that will be maintained or could be shared.

Formal Complaint Filed (cont.)

- A BOCES's "treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX."

-

34 CFR 106.45 (a)

Formal Complaint Filed (cont.)

- Prompt and equitable process
- Written notice of formal complaint including the allegation(s) with time and place of incident; investigation process; informal resolution requirements; and potential outcomes.

Both parties informed of the right to have an advisor throughout the process (could be attorney or parent). If one party has an advisor at the determination phase, the BOCES is required to provide an advisor to the other party.

TITLE IX PERMISSIVE AND MANDATORY DISMISSALS

- Mandatory Dismissal of formal complaint
 - * Not an Education program or activity
 - * Conduct not Sexual Harassment (per Title IX)
 - * Conduct occurred outside jurisdiction
- Discretionary Dismissal of formal complaint
 - * Complainant Withdraws formal complaint
 - * Respondent no longer affiliated
 - * Evidence unavailable

Appeal Following Mandatory Dismissal

- The BOCES's decision to dismiss the formal complaint may be appealed by the complainant for the following reasons:
 - *Procedural irregularity that affected the outcome
 - *New evidence that affected the outcome
 - *Conflict of interest that affected the outcome

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INVESTIGATION

Investigation-Title IX

Burden is on the BOCES to gather evidence sufficient to make a determination of responsibility in the determination phase

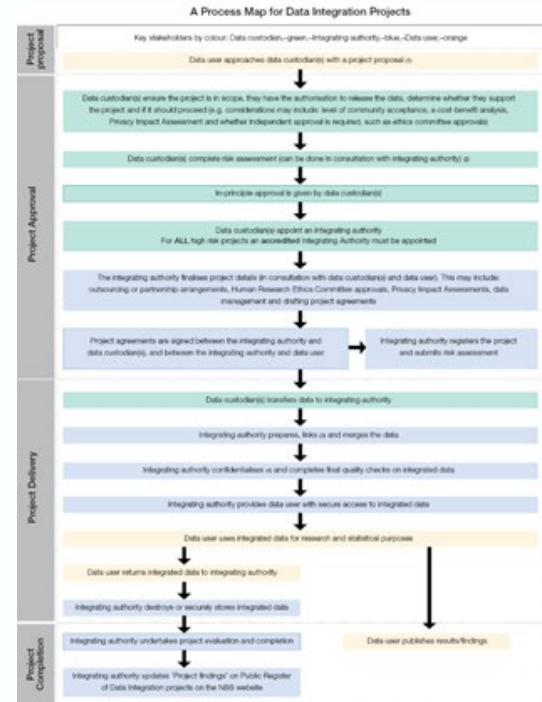
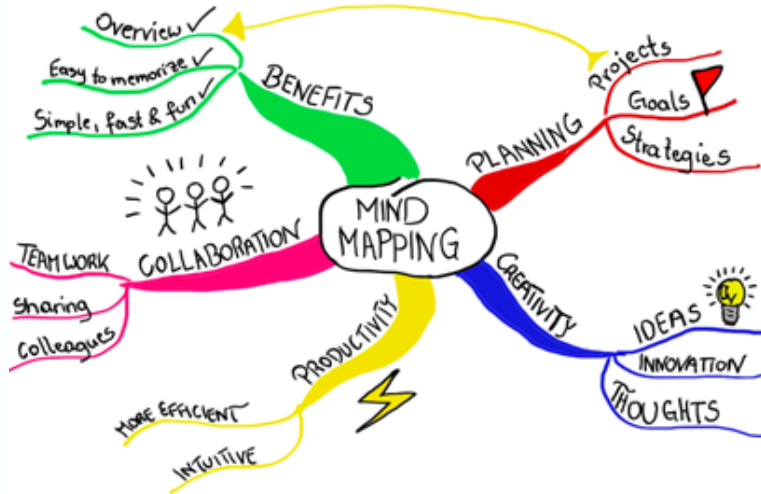
1. Written notice before an interview or request for evidence from a party or witness.
2. Provide same opportunities for both parties to produce evidence and to provide witnesses.
3. Investigator is obligated to gather evidence directly related to the allegations, including exculpatory and inculpatory evidence.
4. Investigator may make decisions of relevancy and credibility.
5. All evidence organized. All relevant information produced and interview notes are then assembled and presented to both parties and their advisors. Maintain confidentiality to the extent possible.

Investigation (cont.)

6. Each party and his or her advisor have 10 days to inspect and review the investigation documents. Each party may produce a written document to comment on the relevancy of the evidence or interviews.
7. Investigator has 10 days after receipt of the relevancy summary of the parties to produce an investigation report. Documented in the report should be the relevance each party gives to the various evidence/interviews.
8. Investigation report does not reach a conclusion/determination of responsibility.
9. The Investigation report is presented to each party and his or her advisor.

PLANNING IS ESSENTIAL FOR ALL INVESTIGATIONS

Develop a plan to use as a guideline, but is flexible as you investigate, making determinations on relevancy, witness credibility, and any conscious decision.



INVESTIGATION

SCOPE AND PURPOSE

Limited to the allegation.

If additional allegation, Investigator shares with the Title IX Coordinator who will produce new Notice of Allegation Letter for each Party.

Was the complainant incapacitated?

Could the person make rational, reasonable decisions?

Could the Complainant appreciate the situation and address it consciously such that any consent was informed?

What did the Respondent know or should have known from the circumstances?

What factors may be important?

- Age
- Mental Capacity
- Alcohol

ORDER OF INVESTIGATION INTERVIEWS

- Complainant
 - Complainant Witnesses (character witness or fact witness)
 - Independent Witnesses (fact witness)
 - Respondent Witnesses (character witness or fact witness)
 - Respondent
-
- Reserve the right to call the Party or Witness for further questioning.

Preparation of Questions

- What is it that the investigation is trying to prove?
- What do you need to know to prove it?
- Do you need to keep witnesses separate from each other—two people ask questions of two witnesses at the same time?
- Write out your questions in advance.
- Ask the questions and be flexible to follow a lead that may help prove whether the conduct occurred as alleged.

Logistics

- Who is taking notes?
Why?
- Should the investigator take notes?
Title IX?
Other investigations?
Title VI
DASA
Sexual Harassment (non-Title IX)
- How are they reviewed for accuracy?
- How are they stored?
Notebook
Electronic document
- When do they need to be provided?

5 W's and H

Write out questions for each party/witness and be flexible to explore based on response.

- WHO
- WHAT
- WHERE
- WHEN
- WHY
- HOW

Complainant Questions

- Open ended—have them describe so that you see the full picture
- Amplify with who, what, where, when, why, how....
- What happened next?
- Tell me more about that?
- Has this or anything similar occurred before? Explain?

- Who else should I talk to? What do you believe they will they be able to share?

- Any communications, photos, videos, etc. that you have that you can provide to me.

Witness Questions

- Open ended.
- Have them describe what they saw? Experienced? or told?
- Amplify with who, what, where, when, why, how....
- What happened next?
- Tell me more about that?
- Has this or anything similar occurred before? Explain?
- **Can be more direct:**
 - Did Aimee do "Y" to Pam? If yes, explain? If not, how did it occur? How do you know that?
 - Did Pam say "X"? If not, what did Pam say? How do you know that?
- **Who else should I talk to? What do you believe they will they be able to share?**
- Any communications, photos, videos, etc. that you have that you can provide to me.

Respondent Questions

- Be direct, unless you need to build trust.
- If you need to build trust—start with an easy question that is not on topic. Favorite class, What do for fun outside of school, etc.
- Be direct with questions regarding the accusation:
 - On or about date X you do Y, correct?
 - If yes, why did you think you could do that?
 - If no, on or about date X did you have any interaction with the Complainant? What was the interaction?
 - Allow them to talk and then go back to direct questions regarding the matter.
 - So you did Y, correct?

Be persistent-this isn't baseball or football

- Ask
- Re-ask
- Re-word, re-ask
- Circle back—reword, re-ask
- Treat as new and reword, re-ask
“Oh, one think I forgot to ask”, re-ask

Collection of Evidence and How?

- Text messages,
 - Documents,
 - Emails,
 - Social media,
 - Videos (Student and/or School Security)
 - Photos
 - *Medical information/Mental Health Information*
- *Inform them that once you take the information, it becomes part of the investigation file and will be shared with the parties.

INVESTIGATION FILE

- Provide both parties an equal opportunity (10 days) to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including:
 - the evidence the BOCES does not intend to rely on in reaching a determination of responsibility; and
 - inculpatory or exculpatory evidence whether obtained from a party or other source.

INVESTIGATION FILE

- Each party provided opportunity to meaningfully respond to the evidence prior to the conclusion of the investigation. Share with each/advocate and ask them for to provide comments on relevancy and explanation

INVESTIGATION FILE

- Code each page “C1” “R1”
- Use a watermark –Confidential C, Confidential R

INVESTIGATION REPORT

- The investigator then has ten (10) days to compile the relevant information, including the comments and observations of the parties, into a final Investigation Report.
- Report provide to each party/advocate simultaneously
- Report provided to the Title IX Coordinator

Non-Title IX INVESTIGATION REPORT

- Allegation investigating
 - How was it brought to your attention
- Authority to investigate (Policy, Role as DASA Coordinator, etc.)
- How investigated
 - Who did you interview?
 - What documents/videos/etc. did you review?
- Summary of interviews (Credibility of witness and summary of what said)
- Summary of Documents/Videos/etc.

Non-Title IX INVESTIGATION REPORT (cont'd)

- **Findings**
More likely than not that X occurred (or in reverse)
- **Determination**
The Respondent was in violation of X when they.....
- **If founded, then next steps for Penalty—(due process under Education Law 3214)**

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TITLE IX DETERMINATION PHASE

Determination Phase—Hearing

Question and Answer Method

- May not start sooner than 10 days after receipt of the Final Investigative report.
- Advocate for each Party permitted to ask through the hearing officer questions of the other Party or witnesses.
- Hearing officer responsible to evaluate if the question is relevant. If not, must provide an answer as to why it is not relevant.
- Follow up permitted.
- Should have notetaker present to record answers and have the individual providing the answer sign off on the response.

Hearing (cont.)

- If a party does not have an advisor, the BOCES must provide, without charge, an advisor of the BOCES's choice to conduct cross examination on behalf of the party.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless offered to prove that someone other than the respondent committed the alleged conduct or if offered to prove past consent with respondent.

Hearing (cont.)

- Decision maker(s) may not draw an inference about determination of responsibility **based solely** on a party's or witness's absence from cross examination.



Considerations for Determination Phase

Who is best to capture the Question and Answer “cross examination”;

Providing and training potential advisors;

Real-time decisions regarding relevance by decision-maker(s).

HOW DO YOU DETERMINE IF EVIDENCE OR A QUESTION IS RELEVANT?

Evidence/Question is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action

How do you make the determination?

- 1. Credibility of the Witnesses
 - 2. Relevant evidence
 - 3. Weight of the relevant evidence
 - 4. Fact findings
 - 5. Compare to the definitions in the Title IX policy
-
- Check yourself and your decision-making process for bias.



Determination of Responsibility

1. Decision maker must issue a written determination of responsibility applying the standard of evidence in the grievance process (i.e. preponderance of the evidence).

Determination of Responsibility (cont.)

2. Written determination must include:
 - a. Allegations potentially constituting sexual harassment;
 - b. A description of the procedural steps taken from receipt of the formal complaint through determinations (including notifications, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearing/question and answer process used);
 - c. Findings of fact supporting the determination;

Determination of Responsibility (cont.)

- d. Conclusions regarding the application of the BOCES's Code of Conduct to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanction imposed on the respondent, and whether any remedies designed to restore or preserve equal access to the BOCES's educational program or activity will be provided to the Complainant.
- f. The procedures and permissible basis for the Complainant or Respondent to appeal.



Determination of Responsibility (cont.)

3. Provide the written determination simultaneously to the parties.
4. The Title IX Coordinator is responsible for the effective implementation of any remedies.

Determination of Responsibility (cont.)

DETERMINATION
OF
RESPONSIBILITY

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graph TD; A[DETERMINATION OF RESPONSIBILITY] --> B[PENALTY PHASE]; A --> C[APPEAL];
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PENALTY
PHASE

APPEAL



Penalty Phase

- The decision-maker makes determination of responsibility. If found guilty of violating Title IX, the decision maker shall recommend sanctions against the respondent and any necessary remedies for the complainant.
- The penalty phase will be addressed consistent with due process rights in the Code of Conduct, 3214, Section 75, Education Law 3020-a, or a collective bargaining agreement.

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APPEALS

Appeal

[Applies to determination of responsibility and/or the BOCES dismissing the formal complaint]

Basis for an appeal:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator, or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Appeal Process

1. Notify the other party in writing that an appeal has been filed and implement appeal procedures equally for both parties;
2. Ensure decision-maker for appeal is not the same as the decision-maker for responsibility or dismissal, Title IX Coordinator or Investigator.
3. Ensure the decision-maker does not have a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter.
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome;
5. Issue a decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.



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ADVISORS



Advocates

- Individual of the Parties choice* who can assist them during the process.
- The Advocate may not speak on the Party's behalf during an interview or hearing.
- The BOCES can provide a Code of Decorum to Advocates and hold them accountable to it, as long as, the BOCES enforces it in an equitable manner for both parties.
- BOCES must assign an advocate if a party does not have one at the hearing.

Advocates

- Understand the BOCES's Title IX grievance procedure and ask questions of the Title IX Coordinator.
- Support the Party.
- Be able to attend interviews and hearing.
- Be copied on all correspondence.
- Support but not speak for the Party in responding to questions

Advocates

- Make sure the Party's overall wellbeing is being supported. If not, suggest resources or additional supportive measures.
- Review with their Party the initial investigation report and draft (along with the Party) the statement of observations and relevancy.
- Be able to express relevant questions in the matter based upon the investigation report.

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BEST PRACTICES




Additional Responsibilities

- Records retention—at least 7 years.

Best Practices

Have the Title IX Coordinator maintain an extensive Title IX LOG, including:

- Any actual knowledge of sexual harassment
- Title IX Coordinator Intake (supportive measure; explain Formal Complaint option and grievance process)
- Supportive measures (provided; denied; not requested; declined)
- Formal Complaint filed or not;
- Does it fit the definition of sexual harassment;
- Does the BOCES have jurisdiction over the allegation;
- Notification Letters (Title IX, Investigation interviews, Determination process, Appeal) and process;
- Determination of responsibility (any discipline or remedies issued)
- Appeal filed  result.

Best Practices (cont.)

- Ensure the opportunity for cross examination (live hearing or quest and answer). Key for due process rights of the respondent.
- Understand your own bias/perception/prospective.
- Determining whether a potential conflict of interest exists is fact specific. Be consistent.
- Share procedural items between the key players—
not substantive facts/evidence/witnesses/etc.
- Post contact information for Title IX Coordinator and Title IX grievance process including potential sanctions to website (and relevant handbooks, code of conduct, etc.)

Best Practices (cont.)

- Post training materials on the BOCES website.
- Outline BOCES rules for advisors.
- Train all employees regarding actual knowledge of sexual harassment.
- Review the following policies for compliance with the Title IX regulations:
 - Sexual Harassment policies (student respondent; employee respondent)
 - Code of Conduct
 - Grievance Procedures
 - Non-discrimination policy
 - Employee social media/fraternization policy
 - Visitor policy and third-party agreements for other individuals that may be on BOCES property (guests in dorms, athletic fans, etc.)

Best Practices (cont.)

- When there is an active Title IX complaint, file a memo with the President requesting his authorization for each employee to serve in the designated role.

Why?

- Protection
- Insurance

Interim Message for Website

- ✓ Post the following interim message to the Title IX webpage:

“The BOCES is aware that the 2024 Title IX Final Rule has been vacated by the District Court of Kentucky. *See, State of Tennessee v. Cardona*, No. 2:24-00072 (Jan. 9, 2025) The BOCES is presently working on updating its policies and procedures to reflect this change and train its Title IX team.

Please note that any actual knowledge of a potential Title IX matter initiated as of January 9, 2025, will be addressed pursuant to the 2020 Title IX guidelines.

Please forward any questions to Title IX Coordinator (Add contact information including name, physical address, phone number, and email address).

The BOCES does not discriminate on the basis of sex in the education program or activity that it operates; and is required by Title IX and its regulations not to discriminate in such a manner. This extends to admission, and employment.”

Thoughts?

