



Title IX

ECTOR COUNTY
INDEPENDENT
SCHOOL DISTRICT
2024-2025

In a nutshell . . .

- ▶ Lincoln's Gettysburg Address 272 words
- ▶ The U.S. Constitution 4 pages
- ▶ War and Peace 1,225 pages
- ▶ The New Title IX Regulations 1,557 pages

NEW TITLE IX REGULATIONS

FAST FACTS

These regulations are effective August 1, 2024 in most states

These regulations have far more flexibility than the 2020 regulations

There's about a 65% change of regulations from 2020, so more change than not

CHALLENGE

- ▶ Already, there are three pending court cases in Texas that are attempting to determine the finer points of the new Title IX regulations.
- ▶ *ECISD will cooperate to fullest extent possible to adhere to the changes to avoid any issue with Federal Funding. The courts will need to sort this out.*

Who must be trained?

It is now required that all employees be trained to address sex discrimination, the scope of conduct that constitutes sex discrimination under Title IX (including the definition of “sex-based harassment”), and all applicable notification and information requirements.

Training must be completed, not just made available.

Proof will be required from every employee.



How often must we be trained?

All persons must receive training promptly **upon hiring or change of position**, and **annually** thereafter.

What does Title IX cover?

Discrimination based on:

- Sex stereotypes,
- Sex characteristics,
- Pregnancy or related conditions,
- Sexual orientation, and
- Gender identity.

Sex based harassment:

- Quid pro quo harassment,
- Hostile environment harassment,
- Sexual assault,
- Dating violence,
- Domestic violence, and
- Stalking.

WHERE does Title IX cover?

Under the final regulations, ECISD is required to address a sex-based hostile environment in its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred **outside** the district's education program.

- Downstream or in-program effects of external conduct

What is sexual harassment?

NEW DEFINITION: Sexual Harassment is defined as unwelcome sex-based conduct that is **sufficiently severe or pervasive** that, based on the totality of the circumstances and evaluated subjectively and objectively, it denies or limits a person's ability to participate in or benefit from the district's education program or activity.

Gender Identity



The final regulations prohibit a recipient from separating or treating any person differently based on sex in a manner that subjects that person to more than **de minimis harm**, except in the limited circumstances where the statute allows otherwise, such as in the context of **sex-separate living/showering** facilities and **sex-separate athletic teams**.

Examples of Sexual Harassment Verbal, Non-Verbal, or Physical

- ▶ Sexual propositions and advances
- ▶ Vulgar Language
- ▶ Sexual Touching
- ▶ Embarrassing Questions
- ▶ Sexual Jokes
- ▶ Discussing Sexual Activity

This list is not intended to be all inclusive

Intent vs. Effect

- ▶ The intent of the person who engages in sexual harassment is irrelevant; the investigation focuses on how the recipient feels about the behavior.

“ACTUAL KNOWLEDGE”

Instead of requiring a school district to have “actual knowledge” as from 2020, now it is redefined to state that the district must have “knowledge of conduct that may constitute sex discrimination”

This is much broader!

What is “Prompt”?

A reasonably prompt response to sex discrimination “is judged in the context of the district’s obligation to provide students and employees with education programs and activities free from sex discrimination.”

Filing A Complaint –Considerations

1. The complainant's **request not to proceed** with initiation of a complaint
2. The complainant's **reasonable safety concerns** regarding initiation of a complaint
3. The **risk that additional acts of sex discrimination would occur** if a complaint is not initiated
4. The **severity of the alleged sex discrimination**, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
5. The **age and relationship of the parties**, including whether the respondent is an employee of the district
6. The **scope of the alleged sex discrimination**, including information suggesting a **pattern**, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals
7. The **availability of evidence** to assist a decisionmaker in determining whether sex discrimination occurred
8. Whether **the recipient could end the alleged sex discrimination** and prevent its recurrence without initiating its grievance procedures

How to report sexual harassment

- ▶ Immediately contact your campus administrator.
- ▶ If unable to report to campus administration, you may report to the ECISD Title IX office.

Whose responsibility is it to report?

- ▶ All employees **must immediately/promptly** report all instances of suspected sexual harassment/discrimination to a campus administrator or department director.
- ▶ Failure to report alleged sexual harassment will result in disciplinary action up to termination.
- ▶ If the incident could be child abuse, the employee **MUST** report to Child Protective Services (CPS) or law enforcement within 48 hours of learning of the incident.

After receiving a report of alleged conduct sexual in nature:

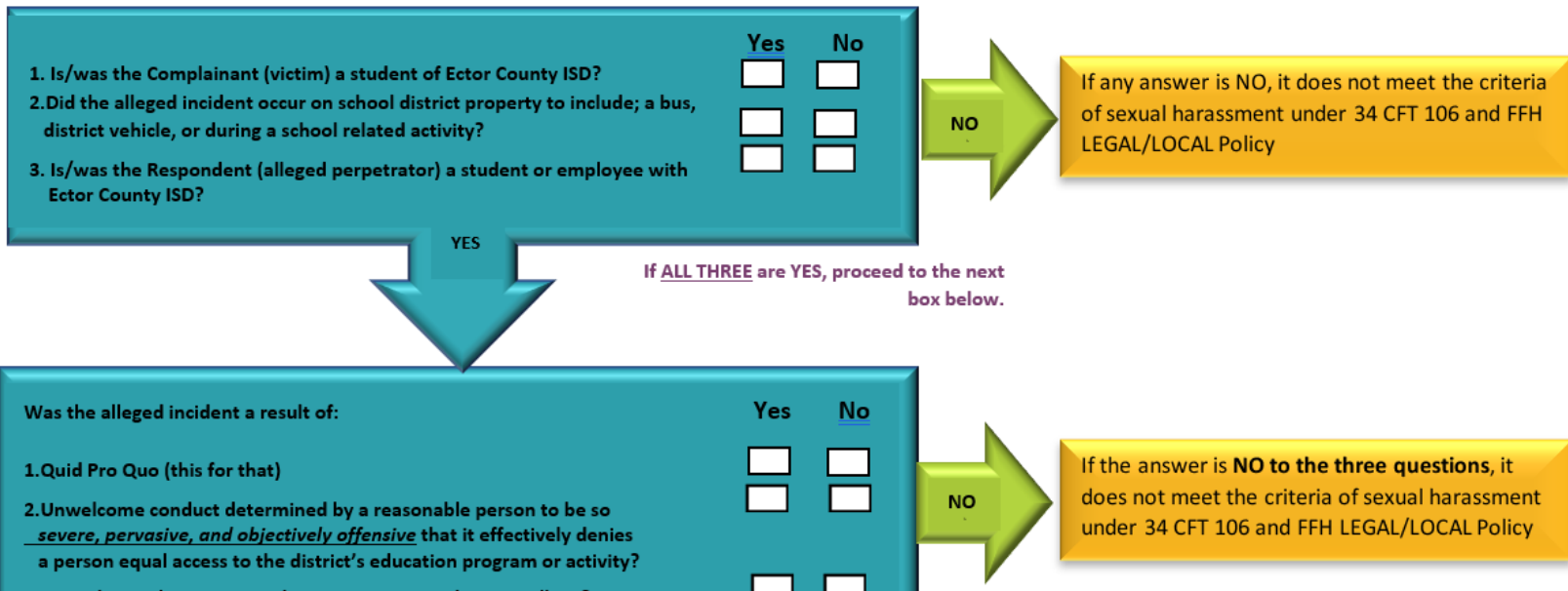
- ▶ Step 1: Contact the parent of both the complainant and alleged respondent notifying both that an investigation involving their child is taking place.
- ▶ Step 2: Follow the Sexual Harassment Criteria Review Flowchart to determine if the elements of sexual harassment are present.
- ▶ Step 3: If the incident does not meet all elements of alleged sexual harassment, consult the Student Code of Conduct for disciplinary action. Complete the District Investigation Report and keep on file on the campus. Do not proceed to Step 4.
- ▶ Step 4: If the incident meets all elements of alleged sexual harassment, campus administrator will notify the Title IX coordinator immediately via email and/or phone. Administrator will complete the Title IX Incident Intake Assessment Form and submit to the Title IX Coordinator within 24 hours.
- ▶ Campus must provide Supportive Measures to both the complainant and respondent and will report them to the Title IX Coordinator.

Sexual Harassment Criteria Flow Chart



Sexual Harassment Criteria Review Flowchart

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students or employees in educational institutions that receive federal financial assistance. The Ector County Independent School District prohibits discrimination, including harassment, against any student/employee on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District Policy and is prohibited. Please utilize this checklist to determine if the elements of sexual harassment are present under Title IX (34 CFR 106), and, if so, please complete the Title IX Intake Assessment Form.



Investigative Report



Ector County Independent School District

Investigation Report

Date: _____ Campus/Dept: _____ Investigator: _____

Complaint Rec'd: _____ Investigation Start: _____ Investigation Complete: _____

Incident of Investigation: *Describe the incident(s) that prompted the investigation*

After receiving a report of alleged conduct sexual in nature:

- ▶ Step 5: Title IX Coordinator will contact the Complainant to discuss:
 - ▶ Supportive Measures available
 - ▶ Consider the complainants wishes regarding supportive measures
 - ▶ Explain to the complainant the option and process to file a formal complaint.

When does liability attach for student sexual harassment?

- ▶ A district or individual administrator will face liability when the administrator acts with **Deliberate Indifference**.
- ▶ Deliberate Indifference occurs when a school has actual knowledge of sexual abuse harassment/discrimination (or allegations) yet does not adequately respond.

When does liability attach for employee harassment?

- ▶ A school district or individual administrator may be liable for the sexual harassment of an employee when ***the administrator knew or should have known of the harassment and failed to take prompt, remedial action.***

DO NOT TAKE CHANCES!

- ▶ DO NOT engage in social media with students. This includes all forms of social media including but not limited to Snapchat, Twitter, Instagram, Facebook.
- ▶ DO NOT Text with students. You are to utilize only school/school activity approved platforms. (Example: SportsU, Band App etc)
- ▶ DO NOT email with students from your personal email.
- ▶ DO NOT send or receive pictures from students
- ▶ DO NOT give unwanted gifts to students.

JUST DON'T

- ▶ Hugs, squeezes, grabs, winks, tickling, kisses
- ▶ Holding or putting students on your lap
- ▶ Driving students
- ▶ Zipping Pants and changing undergarments – may be required in some Special Education environments. **Always have an adult witness.**

What will happen to a school employee who sexually harasses or abuses a student?

- ▶ The employee will be **arrested and prosecuted** for the crime.
- ▶ Perpetrator can be **sued by the victim** for monetary damages
- ▶ Will be **TERMINATED from ECISD** and reported to TEA and SBEC

PROTECT YOURSELF

DON'T

- ▶ Mix social life with job related decisions
- ▶ Talk about sex on the job
- ▶ Respond to seductive behavior (You should report it!)
- ▶ Be alone with a student
- ▶ Engage in SOCIAL MEDIA with students!!
- ▶ TOUCH STUDENTS UNLESS NECESSARY

PROTECT YOURSELF

ALWAYS

- ▶ Report any outside contact initiated by students
- ▶ Keep all actions job-related
- ▶ Keep compliments merit based
- ▶ Model expected behavior
- ▶ Keep your hands to yourself
- ▶ AVOID PERSONAL RELATIONSHIPS with STUDENTS

Prevention/Elimination of Harassment is Everyone's Responsibility

- ▶ If you see it report it.
- ▶ Treat all allegations seriously!
- ▶ Keep a record of any actions you take to stop/report sexual harassment
- ▶ If the allegation involves abuse you must CONTACT ECISD POLICE AND CPS. Be sure to document the case number provided following a report.

Changes in Procedures

- Decisionmakers may be the same person as the Title IX Coordinator or investigator
- We must take reasonable steps to protect privacy of parties and witnesses
- We must objectively evaluate relevant and not otherwise impermissible evidence
- Complaints may be consolidated under certain circumstances
- Complaints may be oral or written
- Districts are prohibited from disciplining a party, witness, or other participant for making a false statement
- Parties are permitted to choose to participate in an informal resolution process even if no complaint is filed.
- Former students or employees may now file Title IX complaints

Informal Resolutions

- Prior to determination, districts may offer informal resolution
- This does not require a complaint
- Informal resolution is **NOT** permitted in situations in which an employee is accused of sex discrimination against a student

Informal Resolutions

- Participation in informal resolution **must be voluntary**.
- The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the recipient's **grievance procedures**.
- Any person designated by the district to facilitate an informal resolution process **must not have a conflict of interest or bias** for or against complainants or respondents, and must be trained.

Investigation

School districts must provide for an adequate, reliable, and impartial investigation

- **The burden is on the district to investigate and gather sufficient relevant evidence**
- Equal opportunity must be given for parties to:
 - Provide fact witnesses and detailed, relevant evidence
 - Access to the relevant evidence
 - Reasonable opportunity to respond to the evidence

Questioning and Decision-Making

The Decisionmaker must be able to question parties and witnesses to adequately assess credibility

- ❖ We only use **preponderance of the evidence**
- ❖ Decisionmakers will provide **written determination** of:
 - ❖ Rationale
 - ❖ Grounds for appeal, if applicable

Then the Title IX Coordinator will coordinate remedies and sanctions if there is a determination of a violation

Supportive Measures

Supportive Measures are **non-disciplinary, non-punitive** individualized services as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Examples of Supportive Measures:

- ▶ Counseling
- ▶ Mutual Restrictions: Stay Away Agreement
- ▶ Modification of Schedule
- ▶ Increased Monitoring or Supervision
- ▶ Early or Late release from class
- ▶ Change of campus if appropriate

Dismissal of a Complaint

The school district may dismiss a complaint for any of the following reasons:

1. The district is **unable to identify the respondent** after taking reasonable steps to do so;
2. The respondent **does not attend/is not employed by the district**;
3. The **complainant voluntarily withdraws the complaint**, and the Title IX Coordinator determines not to continue the complaint on their behalf;
4. The recipient determines the conduct alleged in the complaint, even if proven, **would not constitute sex discrimination under Title IX**

Dismissals may be appealed by either party

Appeal decisionmaker cannot have been previously involved in the complaint

Appeals

- At a minimum, appeals must be the same as offered for all other comparable proceedings
- Must offer all parties the opportunity to appeal on the following bases:
 1. Procedural irregularity that would change the outcome
 2. New evidence that would change the outcome and that was not reasonably available when the determination was made
 3. Title IX Coordinator, Investigator, or Decisionmaker had a conflict/bias against the complainant or respondent that would change the outcome

Retaliation

- Retaliation would be defined as intimidation, threats, coercion, or discrimination against anyone because the person has reported possible sex discrimination, made a sex-discrimination complaint, or participated in any way in a recipient's Title IX process.
- A district would be prohibited from taking action against a student or employee under its code of conduct for the purpose of intimidating, threatening, coercing, or discriminating against someone because they provided information or made a complaint regarding sex discrimination.
- This includes "Peer retaliation" – retaliation by one student against another student

Students with Disabilities

- If a party in a Title IX dispute is a K-12 student with a disability, the school district must require the Title IX Coordinator to **consult with 1+ members of the student's IEP team** to determine how to comply with the requirements of the IDEA and/or Section 504 throughout the implementation of the grievance procedure
- The regulations do not require IEP or Section 504 meetings, **do not mandate consultation with full IEP teams or Section 504 teams**, do not identify particular individuals within the IEP team or Section 504 team that must be part of the consultation, and do not specify the decision-making process
- The Title IX Coordinator may have **access to the student with a disability's educational records** in order to comply with their Title IX duties
- For an elementary school or secondary school student with a disability who is a complainant or respondent, **supportive measures provided under Title IX may intersect with the decisions made by an IEP team** or Section 504 team, including with regard to the provision of FAPE

Emergency Removals

- Before a district may remove a student with a disability in compliance with Title IX, the district must undertake **an individualized safety and risk analysis** to determine whether an **imminent and serious threat** to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal.
- The respondent must also be provided notice and an opportunity to challenge the decision immediately following the removal, and this provision must not be construed to modify any rights under the IDEA, Section 504, or the ADA.

Parental, Family, or Marital Status, Pregnancy or Related Conditions

- We cannot treat students, employees, or applicants differently based on sex in connection with parental, family, or marital status
- Requires us to take actions to prevent sex discrimination and ensure equal access to the education program or activity, such as by providing reasonable modifications for students, reasonable break time for lactation for employees, and lactation space for students and employees.

Reasonable Modifications

- Providing lactation breaks;
- Rescheduling exams or tests;
- Providing a larger desk;
- Allowing leave from school and excused absences;
- Allowing the student to carry snacks and water;
- Bathroom breaks;
- Access to remote instruction;
- Tutoring;
- Taped lectures;
- Etc.

Pregnancy and Employees

- Comparable treatment to other temporary medical conditions
 - Leave commencement, duration, and extensions
 - Disability payment income
 - Seniority accrual
 - Any other benefit or service
 - Reinstatement
 - Fringe benefits
- Voluntary leaves of absences
- Lactation time and space

ECTOR COUNTY ISD
TITLE IX
COORDINATOR

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A photograph of a chain-link fence, viewed from a low angle looking up, creating a strong sense of perspective. The fence is dark and occupies most of the frame. Overlaid on the fence is a quote in white, all-caps, sans-serif font. In the top right corner of the overall image, there is a solid red rectangular block.

IT'S UNFORTUNATE. TITLE IX IS RATHER SIMPLE: DON'T
DISCRIMINATE ON THE BASIS OF SEX.
- AUTHOR: BIRCH BAYH