



# R<sup>3</sup> Resources: Who's Who on the Title IX Team – K-12 Edition

This document describes the standard roles and associated responsibilities for robust Title IX Teams in the K-12 system

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## Introduction

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The 2020 release of significantly revised federal Title IX regulations<sup>1</sup> brings an opportunity for schools and districts to renew their commitment to providing environments that are free from sex- and gender-based discrimination and misconduct. Given the wide variety of school and district sizes and needs, there is no single Title IX staffing structure that will work universally; however, there are standard roles and associated responsibilities that should be thoughtfully distributed to positions within the school/district that have the appropriate level of authority and access to the processes, systems, and people necessary to fulfill those responsibilities. Title IX responsibilities should be assigned to positions rather than people, meaning that ideally the responsibilities should be permanently incorporated into position descriptions and not be shifted around the school/district based on the individual knowledge and skill set of the person who holds a specific position at any given time.

Cultivating a sustainable school- and district-wide culture of Title IX compliance and commitment to the principles of equity, educational access, and inclusion requires significant coordination, human capital, and quite frankly, financial capital. The extensive new Regulations will require a comprehensive evaluation of current structures, processes, training, and responses. Regardless of a school/district's structure, there will need to be significant staffing growth in the areas of K-12 equity and compliance for the foreseeable future. K-12 schools and districts can look to the experience of higher education by analogy, because higher education experienced a similar shift in Title IX compliance in 2011 as the result of an OCR Dear Colleague Letter.

At first, colleges attempted to fulfill Title IX duties with existing staff, who quickly became overwhelmed with the changes needed. As colleges failed to make necessary shifts and faced strenuous activism and protests from students, colleges realized that they needed to reallocate resources and professionalize the Title IX compliance function.

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<sup>1</sup> Note that throughout this paper, there are numerous references to requirements of the 2020 Title IX Regulations codified at 34 CFR Part 106. In some cases, the language used in this paper is identical or very similar to the Regs to ensure accurate compliance. We have not cited each element, but recognize the imperative to provide readers with fully accurate information.

## Introduction

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The field became more professional, and the needle moved forward. Now higher education is experiencing a high level of burnout, very high staff turnover, and a paucity of qualified applicants for open positions. That cycle may be mirrored at the K-12 level in the coming years. For example, according to the [2018 ATIXA Member Survey](#), 64% of Title IX Coordinators (hereinafter TIXC) at responding institutions had been in their role for three years or fewer – mostly due to turnover. Recognizing the high turnover rate in Title IX-related positions makes it all the more important to establish, on the front end, comprehensive and effective team structures for prevention and response to matters of sexual misconduct and gender inequity.

K-12 can learn from the failures and tribulations of higher education with the aim to create a better result under the new regulations. Some of the mistakes to avoid include: failing to see Title IX compliance as the enormous task and challenge it is; assuming there are already school/district employees with the legal and practical know-how to fulfill the mission; hoping that Title IX compliance can be managed by one person with a shoestring budget; hoping that simply adding Title IX compliance to a person's job description will meet the need; not anticipating the emotional impact of the work; and the toll organizational politics can take if an employee is always pushing the rock uphill without sufficient support, authority, and resources. Those are just some of the lessons K-12 can learn from the higher education world. However, as you know, the K-12 environment presents additional, unique challenges, including minors, the involvement of parents/guardians, overworked staff and underfunded schools, and the constant demand to do more with less, just to name a few. We can now add COVID-19 to the list as well.

But don't fret. Title IX compliance takes a village, and the village needs to become a little more populated. This guide walks K-12 administrators through the steps to form a Title IX Team that can help to ensure program compliance and success. We've walked this path with higher education for ten years. K-12 is embarking on this same path, so the lessons learned will be invaluable to you. Like K-12, higher education initially claimed there were no resources to support this unfunded mandate. After ten years of crisis, hundreds of OCR complaints, and more than 500 lawsuits, we know that higher education has staffed up and committed budgets. The years of distraction from the mission itself have been far more costly than appropriately resourcing the compliance task from its inception.

## The Title IX Team

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ATIXA recommends establishing a cross-functional team of professionals with distinct Title IX-related responsibilities in order to effectively manage compliance and respond to complex, sensitive matters in a timely and thorough manner as required by law. Title IX teams are led by the TIXC and may typically include representatives from human resources, athletics, law enforcement/school safety, medical and/or mental health services, and community-based victim advocacy organizations<sup>2</sup>.

A team structure allows for individuals with specific areas of expertise and access points to people, policies, and processes to work in coordination to implement a comprehensive, school- or district-specific compliance program. Effective teams reduce communication silos, provide a comprehensive view of current compliance efforts and areas for improvement, help to tailor prevention programs to specific populations, and engender trust within the school/district and surrounding community.

Below are descriptions of the common roles and associated responsibilities for robust Title IX Teams.

### Title IX Coordinator

The Title IX Coordinator is the recipient's designated Title IX compliance authority. By regulation, each funding recipient must designate a TIXC, whether that recipient is a district or a stand-alone school. There is no requirement that each school within a district have a TIXC, but some schools are so large, and some districts so dispersed, that it will make sense to use a deputy TIXC model per facility, as described below. Presently, for some schools that are even aware of their Title IX obligations, the TIXC is usually a figurehead of some kind in the central office who is responsible for Title IX in name only, with a school-based administrator in each facility performing investigation functions. This informal and de-centralized model cannot possibly satisfy the requirements of the new Regs and is unsustainable as a compliance mechanism.

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<sup>2</sup> Whenever feasible, districts/schools should make efforts to develop partnerships with community-based advocacy districts to provide assistance, prevention, education, and other available resources and support services for all students and/or employees.

## The Title IX Team

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### Title IX Coordinator - cont.

First, you will need a centralized Title IX Coordinator who has primary compliance authority. In light of the depth and breadth of the new Regs, the Title IX Coordinator should be a full-time, district-level position. While many districts currently use hybrid positions, where the TIXC has other responsibilities within the district, we do not see how a district can meet the new requirements without a full-time administrator. Frankly, larger districts should probably have two or three full-time administrators at the district level who manage Title IX compliance. We know this will be a significant shift for most, so this is not something we say lightly. The district must ensure that the TIXC is: (1) independent and able to avoid conflicts of interest, (2) reports to senior leadership, and (3) has the authority to effectively coordinate compliance efforts and responsibilities under Title IX for all students, employees, and others in the school/district community<sup>3</sup>.

Independence refers to the TIXC being positioned outside of the hierarchical organizational structure and free from improper influence by any other individual or group, including but not limited to, senior leadership, school boards, and legal counsel. Further, Title IX's broad anti-retaliation provision protects the TIXC from discrimination, intimidation, threats, and coercion that interfere with the performance of their job responsibilities.

The breadth of Title IX requires that the TIXC report to senior leadership, such as the superintendent, senior site administrator, or assistant superintendent, to: (1) communicate the importance and organizational support of the position to other members of the school/district and surrounding community, (2) ensure that senior leadership is informed of any significant Title IX issues that arise, and (3) provide direct access to other senior leaders who are responsible for divisions of the school/district with whom the TIXC may need to implement change, support measures, and/or corrective action. TIXCs must have the authority to coordinate and implement all aspects of Title IX compliance programs and related policies.

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<sup>3</sup> OCR's 2015 Guidance regarding the Role of the Title IX Coordinator <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>

## The Title IX Team

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### Title IX Coordinator - cont.

There is a balance required here because we are saying that the TIXC should report to senior leadership, but remain free from the improper influence of senior leadership. Supervision and support are proper; however, interference in investigations or outcomes or engaging in conflicts of interest would be improper and would deprive the TIXC of their requisite independence.

While the TIXC may function as an investigator in the smallest or most resource-strapped environments, this is not recommended. Separate investigators, often well-trained investigators at the district level, or well-trained assistant/vice principals, should be used to allow the TIXC to objectively assess compliance with Title IX and advise senior leadership of compliance concerns that may arise. The new Regs clearly state that the TIXC cannot serve in a decision-making capacity in a grievance or disciplinary process.

TIXCs should be focused on systemic policy, process, and prevention programs including assessing school climate and current program effectiveness; collaboration and cooperation with school officials, parents/guardians, and community partners; and ensuring other members of the Title IX Team have the appropriate knowledge, skills, training, and resources necessary to successfully fulfill their responsibilities. Recommended responsibilities for TIXCs include:

- Providing annual and ongoing training and performance evaluation for Deputy Coordinators, School-Based Representatives, Investigators, Decision-Makers, Appeal Decision-Makers<sup>4</sup>, Advisors<sup>5</sup>, and Advocates<sup>6</sup> for their Title IX-related responsibilities.

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<sup>4</sup> This can be a little awkward if Decision-Makers or Appeal Decision-Makers outrank the TIXC, but for Title IX purposes, they are overseen by the TIXC, who has overall compliance responsibility. If the district created a system in which the TIXC oversees people to whom the TIXC reports, perhaps the district ought to examine the logic of who the district has chosen as Decision-Makers.

<sup>4</sup> This assumes advisors who are district employees or contractors.

<sup>4</sup> This assumes advocates who are district employees or contractors.

## The Title IX Team

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### Title IX Coordinator - cont.

- Providing supervision to Deputy TIXCs, School-Based Representatives, and Investigators as appropriate. This should be at least a dotted line, if not a direct line relationship for purposes of the Title IX function.
- Coordinating regular review and revision of policy and procedures for preventing and responding to reports of alleged sex- and gender-based discrimination, misconduct, and retaliation.
- Working with appropriate offices/departments/schools to ensure program access and equity.
- Establishing an assessment schedule to review compliance efforts, school/district climate, and program effectiveness.
- Conducting the preliminary inquiry for all reported incidents<sup>7</sup>.
- Tracking systemic or pattern incidents and taking remedial actions to prevent their recurrence.
- Providing an annual report to the school/district community including statistics, education and prevention efforts, and continuing practices.
- Providing regular updates to the Superintendent, School Board, Department of Education, etc.
- Maintaining complete records of all sex and gender-based discrimination, misconduct, and retaliation reports and the school's/district's response to each. Records must be maintained for a period of at least seven years.
- Overseeing communication protocols with respect to information shared with parties/witnesses/advisors and other participants in the resolution process.
- Facilitating regular liaison with legal counsel, as appropriate.
- Working with public relations officials to facilitate responses to media and records requests in accordance with the Family Educational Rights and Privacy Act (FERPA) and organizational policy, if appropriate.

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<sup>7</sup> This function can be delegated to deputies.

## The Title IX Team

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### Title IX Coordinator - cont.

- Establishing memoranda of understanding (MOUs) for information sharing and service coordination with school/district law enforcement/security/School Resource Officers (SROs), local law enforcement agencies, local educational agencies/institutions, and community-based response agencies (e.g. child protective services, rape crisis centers, victim advocates, medical providers, mental health providers).
- Determining appropriate notification timelines for parents/guardians for incidents involving minors.
- Integrating abuse of minors protection programs/training/duties to align with Title IX programs.
- Developing and maintaining accurate web and print-based publications with information about non-discrimination statements, policy, process, and resources for applicants, employees, parents/guardians, students, third parties, witnesses, reporting/responding parties, as well as individuals looking to provide support for reporting or responding parties.
- Recruiting and training school-based advisors for reporting and responding parties, if desired.
- Training or ensuring training of all mandated reporters/responsible employees and intake professionals.
- Training or ensuring appropriate training of all students and parents/guardians.
- Complying with the Title IX duty to stop, prevent, and remedy known sex/gender discrimination and retaliation.
- Assuring all TIXCs, deputy coordinators, investigators, decision-makers and any person who facilitates an informal resolution process receive training consistent with the extensive and specific requirements in the new Regs § 106.45 b(1)(iii).



## The Title IX Team

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### Title IX Coordinator - cont.

In addition, the TIXC (or designee) also serves as the individual responsible for coordinating the intake and evaluation of reports alleging sex- or gender-based discrimination, misconduct, and retaliation with School-Based Representatives (hereinafter SBR). Unlike in many schools today where school-based administrators loop in the TIXC after the fact, if at all, the TIXC should review each report<sup>8</sup> and (1) respond to any immediate health or safety concerns raised by the report; (2) offer immediate support and assistance, including determining any initial support measures for reporting and responding parties; (3) determine if notification to law enforcement and/or child protection officials is required; and (4) assess the nature and circumstances of the report to determine whether the reported conduct rises to the level of a potential policy violation and is within the scope of the school/district's sex discrimination and misconduct policy, and the appropriate manner of resolution under such policy.

As part of the initial review and implementation of early support measures, the TIXC may consult with school/district law enforcement/security, student services, human resources, Behavioral Intervention Team (BIT)/Threat Assessment Team (TAT), and/or other appropriate district administrators. While it is true that the TIXC can delegate this responsibility to school-based administrators, it should be done as a formal delegation to them with commensurate modification of their job description. Those administrators must then receive significant training in their roles. If Title IX responsibilities are mostly addressed at the school-based level, the district-level TIXC cannot just be an empty suit. Coordination across schools, centralized training and prevention curricula, consistency of outcomes, and recordkeeping are still best addressed at the district-level, unless your school is not part of a district. In many states, super-districts have formed entities (Joint Powers Authorities, Boards of Cooperative Educational Services, etc.) to leverage buying power, share resources, and defray training costs. That model may be helpful to harness synergies for Title IX compliance across schools and districts.

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<sup>8</sup> In larger districts, we recommend the district TIXC review all allegations that could result in some form of temporary or permanent removal (e.g.: in- or out-of-school suspension, employment suspensions, or termination, etc.).

## The Title IX Team

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### Title IX Coordinator - cont.

If a report will move forward for an investigation, the TIXC<sup>9</sup> will assign one or more appropriately trained investigators who are free from conflicts of interest or disqualifying bias for or against any party. The TIXC (or designee – often the investigator) will provide notice to the parties of the investigation – which includes a detailed summary of the allegations, the applicable policies, the identity of the complainant, the applicable school/district procedures, and provide the name and contact information of the assigned investigator(s)<sup>10</sup>. Investigation reports are commonly reviewed by the TIXC (and often the school's legal counsel) for completeness and clarity prior to being provided to the parties.

There will be circumstances in which an informal resolution of a report is either requested or deemed more appropriate than a formal investigation. In those situations, the TIXC is the gatekeeper for assessing whether an informal resolution is appropriate and will either be responsible for facilitating the informal resolution or for assigning one or more appropriately trained facilitators who are free from conflicts of interest or disqualifying bias to facilitate the informal resolution. Note that an informal resolution must also be voluntary on the part of the parties, as evidenced by written consent.

Regardless of formal or informal resolution of a report alleging sex- or gender-based discrimination, misconduct, and/or retaliation, the TIXC maintains complete and detailed records of any actions, including any supportive measures taken in response to a report or formal allegation of misconduct. These records must be maintained for a period of at least seven years. Investigation records must include notices of investigation, outcomes, rationales, any determination regarding responsibility, any disciplinary sanctions imposed on the responding party, any supportive measures taken, and any remedies provided to the parties, and compliance with sanctions assigned.

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<sup>9</sup> The functions described below can be performed by a TIXC or designee (often a deputy).

<sup>10</sup> For a detailed list of notice requirements, visit the Title IX Coordinator Checklist in this document.

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### Title IX Coordinator - cont.

The TIXC also maintains records of any appeals and the results therefrom, any informal resolution, and all materials used to train coordinators, investigators, and decision-makers with regard to sexual harassment. The basis for any conclusions/decisions must be documented, as well as confirmation that the response was not clearly unreasonable, and that the school/district has taken measures designed to restore or preserve access to the educational program or activity.

### Deputy Coordinator(s)

Deputy Coordinators are individuals designated to assist with management and implementation of population- or function-specific compliance strategies and programs. Depending upon structure, size, and report volume, the school/district may choose to designate a Deputy Coordinator for any of the following populations: students, employees, third parties (vendors, contractors, volunteers, etc.), prevention personnel, and athletics (if applicable). In this structure, the staff designated as Deputy Coordinators are typically housed within the school/district central office, but report to separate departments, such as student services, human resources, and athletics. Another common model is seen in schools and districts with a more robust equity and inclusion office. For this model, Deputy Coordinators are housed within the equity and inclusion office and are assigned to functions such as coordination, compliance, investigations, training, and prevention education. Still another version, workable in larger and/or de-centralized districts, is the aforementioned SBR model, where each school (or pod of co-located buildings) has an on-site Deputy Coordinator. This may be a dedicated position, or a hybrid (often combined with a vice or assistant principal role), but schools must ensure school-based deputies have the time necessary to fulfill their role such because it is significant proportion of that person's responsibilities, not a minor proportion, especially if they will also be taking on an investigator role (more on that, below). Deputy Coordinators are considered thought-leaders on the Title IX Team and should be organizationally situated at the school/district level to effect broad-scale change and garner stakeholder buy-in. It is imperative that Deputy Coordinators avoid any role conflicts related to Title IX matters. For example, it is recommended that a Deputy Coordinator for Students neither serves as a Decision-Maker nor supervises Decision-Makers nor serves as an Appeal Decision-Maker.

## The Title IX Team

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### Deputy Coordinator(s) - cont.

Individuals designated as Deputy TIXCs are often responsible for coordinating the selection and implementation of primary prevention and awareness programs, bystander intervention programs, and ongoing prevention and awareness campaigns for their respective populations addressing sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, sexual assault, intimate partner violence (dating violence, domestic violence), and stalking. Mechanisms to account for training attendance, completion, or exposure (such as hits on a website) should also be implemented to demonstrate compliance efforts.

Deputy TIXCs engage in continuing professional development so that they can be mindful of population- or function-specific needs, trends, and issues related to sex- or gender-based discrimination, misconduct, and/or retaliation and provide thought-leadership for ongoing inclusion efforts. Recommendations for Deputy TIXC responsibilities are delineated by population (Model 1) or function (Model 2) below.

### Deputy Coordinator(s) - Model 1

#### STUDENTS

- Ensure student medical/health services (if any) are inclusive of the gender spectrum and staff are trained to address or provide appropriate referrals for pregnancy and other gender-related medical needs.
- Ensure that the school/district has services equitably available to all students.
- Confirm that school sources for contraception and menstrual products and placement of child changing and pumping/breastfeeding facilities are distributed in a manner that is accessible by all genders.

## The Title IX Team

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### Deputy Coordinator(s) - Model 1 cont.

#### STUDENTS - cont.

- Collaborate with staff responsible for oversight of student clubs, extracurricular programs, and athletic teams to ensure (1) membership practices are not discriminatory, (2) involved students are provided with guidance related to their own response to allegations of group member misconduct based on sex or gender, (3) groups are educated about how policy applies to individuals and groups, and (4) groups are provided with concrete examples of behaviors that may fall under other conduct policies, but must also be reviewed if a sex- or gender-based element is present (e.g. hazing, bullying, cyberbullying).
- Provide training to parents/guardians/volunteers regarding the policy, process, and resources available for reports of sex- and gender-based discrimination, misconduct, and retaliation, and how the school/district would like them to respond when they become aware of an allegation.
- Ensure the school/district has an equitable procedure in place for making decisions regarding facility use in environments that are typically segregated by gender including, but not limited to, restrooms and locker rooms.
- Review sexual and reproductive health curricula and facilitation practices to ensure inclusion of all genders, as well as content that includes anatomical, health, and interpersonal/relationship information (e.g. communicating and respecting personal boundaries, sexual agency/autonomy, signs of unhealthy relationships).
- Establish an equitable protocol for student travel or programs which will include the sharing of sleeping, dressing, or bathing facilities.
- Designate authority for providing non-disability-related pregnancy and parenting adjustments for students.
- Work with the registrar/student records custodian and other appropriate entities to establish a preferred name policy, including providing easily accessible information to students and parents/guardians about such policy.

## The Title IX Team

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### Deputy Coordinator(s) - Model 1 cont.

#### STUDENTS - cont.

- Establish co-investigation protocols as appropriate with early college, dual enrollment, and other site-specific educational extension programs.
- Review available media resources and recommended reading lists to ensure gender diversity among authors and age-appropriate gender and relationship-related subject matter for recommended texts.
- Evaluate dress code(s), including those for special events (e.g. formal dances, musical ensemble performances, spirit days/weeks), to ensure equity for all genders.

#### EMPLOYEES AND THIRD-PARTIES

- Ensure that the school/district has services equitably available to all employees (and third-parties as deemed appropriate)
- Ensure the district has an equitable procedure in place for making decisions regarding facility use in environments that are typically segregated by gender including, but not limited to, restrooms and locker rooms.
- Work with human resources and other appropriate entities to establish a preferred name policy, including providing easily accessible information to employees about such policy.
- Collaborate with curriculum and instruction development staff to provide information on creating gender-inclusive curriculum and academic spaces.
- Work with new employee orientation professionals to include appropriate information about Title IX in all new employee onboarding.
- Provide information on policy and expectations for contractors and vendors including, but not limited to, food service providers, custodial service providers, construction companies, contracted security, and landscape service providers.

## The Title IX Team

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### Deputy Coordinator(s) - Model 1 cont.

#### EMPLOYEES AND THIRD-PARTIES - cont.

- Coordinate with higher education institutions placing teacher education and/or other students in your school for observation or direct-interaction purposes to provide information on expectations for hosting higher education students, including providing an environment that is free of sex- or gender-based discrimination, misconduct, and/or retaliation. Develop a protocol for responding to reported misconduct involving such individuals.
- Review information provided to camp and conference participants, as well as parents or guardians of minor participants, to ensure that they are apprised of the district's non-discrimination policy and available resource and reporting options.
- Work with employees to ensure that support measures within their purview/school are implemented and effective at ensuring/restoring educational program access.

#### ATHLETIC EQUITY

- Ensure compliance with any conference or governing body requirements for training/education, equity, and student athlete transfer and/or eligibility policies.
- Establish an assessment schedule to review compliance efforts, district athletic climate, and program effectiveness. This should include, but not be limited to, a review of coach and official compensation, facilities, scheduling of practices and competitions, and presence of spirit groups at competitions.
- Implement metrics to assess athletic gender equity (1) for participation under the three-part test, and (2) for other athletic benefits and opportunities. This should include, but not be limited to, a regularly conducted interest survey.

## The Title IX Team

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### Deputy Coordinator(s) - Model 1 cont.

#### ATHLETIC EQUITY - cont.

- Conduct a comprehensive review of spirit groups that are associated with athletic events (e.g. dance team, cheerleaders, bat persons, mascots) including, but not limited to: group names, marketing materials, attire/costumes, audition requirements, responsibilities, and choreography; to ensure there is not an actual or perceived exclusion from participation based on sex or gender. ATIXA recommends avoiding naming conventions such as Lady Raiders, Raiderettes, and Raider Girls.
- Review information provided to camp participants, as well as parents or guardians of minor participants, to ensure that they are apprised of the district's non-discrimination policy and available resource and reporting options.
- Establish an equitable process for reviewing athletics employment applicants, including coaches, and any previous involvement with sex or gender-based misconduct under a previous employer.
- Coordinate booster and fundraising efforts and educate any booster and/or fundraising groups about requirements for equity under Title IX and their impact on compliance.

### Deputy Coordinator(s) - Model 2

#### COORDINATION AND COMPLIANCE

- Ensure student medical/health services (if any) are inclusive of the gender spectrum and staff are trained to address or provide appropriate referrals for pregnancy and gender-related medical needs.
- Confirm that school sources for contraception and menstrual products and placement of child changing and pumping/breastfeeding facilities are distributed in a manner that is accessible by all genders.
- Ensure the district has an equitable procedure in place for making decisions regarding facility use in environments that are typically segregated by gender including, but not limited to, restrooms and locker rooms.



## The Title IX Team

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### Deputy Coordinator(s) - Model 2 cont.

#### COORDINATION AND COMPLIANCE - cont.

- Establish an equitable protocol for student travel or programs which will include the sharing of sleeping, dressing, or bathing facilities.
- Designate district authority for providing non-disability-related pregnancy and parenting adjustments for students.
- Work with the registrar/student records custodian and other appropriate entities to establish a preferred name policy, including providing easily accessible information to students and parents/guardians about such policy.
- Work with students and parents/guardians to ensure that support measures within their purview/school are implemented and effective at ensuring/restoring educational program access.
- Review available media resources and recommended reading lists to ensure gender diversity among authors and age-appropriate gender and relationship-related subject matter for recommended texts.
- Evaluate dress code(s), including those for special events (e.g., formal dances, musical ensemble performances, spirit days/weeks), to ensure equity for all genders.
- Work with human resources and other appropriate entities to establish a preferred name policy, including providing easily accessible information to employees about such policy.
- Review information provided to camp and conference participants, as well as parents or guardians of minor participants, to ensure that they are apprised of the district's non-discrimination policy and available resource and reporting options.
- Work with employees to ensure that support measures within their purview/school are implemented and effective at ensuring/restoring educational program access.
- Ensure compliance with any athletic conference or governing body requirements for training/education, equity, and student athlete transfer and/or eligibility policies.

## The Title IX Team

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### Deputy Coordinator(s) - Model 2 cont.

#### COORDINATION AND COMPLIANCE - cont.

- Establish an assessment schedule to review compliance efforts, athletic climate, and program effectiveness. This should include, but not be limited to, a review of coach and official compensation, facilities, scheduling of practices and competitions, and presence of spirit groups at competitions.
- Implement metrics to assess athletic gender equity (1) for participation under the three-part test, and (2) for other athletic benefits and opportunities. This should include, but not be limited to, a regularly conducted interest survey.
- Conduct a comprehensive review of spirit groups that are associated with athletic events (e.g., dance team, cheerleaders, bat persons, mascots) including, but not limited to, group names, marketing materials, attire/costumes, audition requirements, responsibilities, and choreography, to ensure there is not an actual or perceived exclusion from participation based on sex or gender. ATIXA recommends avoiding naming conventions such as Lady Raiders, Raiderettes, and Raider Girls.
- Establish an equitable process for reviewing employment applicants, including coaches, and any previous involvement with sex or gender-based misconduct under a previous employer.
- Coordinate booster and fundraising efforts and educate any booster and/or fundraising groups about district requirements for equity under Title IX and their impact on compliance.
- Establish co-investigation protocols as appropriate with early college, dual enrollment, and other site-specific educational extension programs.

## The Title IX Team

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### Deputy Coordinator(s) - Model 2 cont.

#### TRAINING AND PREVENTION EDUCATION

- Work with new employee orientation professionals to include appropriate information about Title IX in all new employee onboarding.
- Provide training to parent/guardian volunteers regarding the policy, process, and resources available for reports of sex- and gender-based discrimination, misconduct, and/or retaliation and how the district would like them to respond when they become aware of an allegation.
- Collaborate with curriculum and instruction development staff to provide information on creating gender-inclusive curriculum and academic spaces.
- Provide information on policy and expectations for contractors and vendors including, but not limited to, food service providers, custodial service providers, construction companies, contracted security, and landscape service providers.
- Coordinate with higher education institutions placing teacher education and/or other students in your school for observation or direct-interaction purposes to provide information on district expectations for hosting higher education students, including providing an environment that is free of sex- or gender-based discrimination, misconduct, and retaliation. Develop a protocol for responding to reported misconduct involving such individuals.
- Review sexual and reproductive health curriculum and facilitation practices to ensure inclusion of all genders, as well as content that includes anatomical, health, and interpersonal/relationship information (e.g. communicating and respecting personal boundaries, sexual agency/autonomy, signs of unhealthy relationships).
- Collaborate with staff responsible for oversight of student clubs, extracurricular programs, and athletic teams to ensure (1) membership practices are not discriminatory, (2) involved students are provided with guidance related to their own response to allegations of group member misconduct based on sex or gender, (3) groups are educated about how policy applies to individuals and groups, and (4) groups are provided with concrete examples of behaviors that may fall under other conduct policies, but must also be reviewed if a sex- or gender-based element is present (e.g. hazing, bullying, cyberbullying).

## The Title IX Team

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### Deputy Coordinator(s) - Model 2 cont.

#### TRAINING AND PREVENTION EDUCATION

- Ensure all TIXCs, deputy coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training consistent with the extensive and specific requirements in the new Regs § 106.45 b(1)(iii).

### School-Based Representatives (Might be called Title IX Deputies, etc.)

School-Based Representatives (SBRs) provide on-site leadership for Title IX-related functions, implement supportive measures for their respective schools, and avoid role conflicts related to Title IX matters. The SBR should manage the intake process for reports within the school and then coordinate with the TIXC if/as necessary to determine appropriate response steps based on the involved parties and the nature of the reported conduct. Coordination with the TIXC may include a review of each report and (1) response to any immediate health or safety concerns raised by the report, including determining any initial support measures for reporting and responding parties; (2) offering immediate support and assistance; (3) determining if notification to law enforcement and/or child protection officials is required; and (4) assessing the nature and circumstances of the report to determine whether the reported conduct rises to the level of a potential policy violation, whether the reported conduct is within the scope of the school/district's sex discrimination and misconduct policy, and the appropriate manner of resolution under such policy. SBRs should also have a direct connection to their school's BIT/TAT and refer individuals to that team as necessary. It is recommended the SBRs have the ability to resolve low-level, student-on-student incidents that do not require a formal investigation. In some districts, especially larger districts, the SBR should be trained and empowered to handle more serious allegations as well. SBRs should also serve as the conduit for information between their school and the district office, as applicable, for Title IX-related education and training needs and offerings.

## The Title IX Team

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### School-Based Representatives - cont.

Various models pertain so that in some situations, the SBR is effectively the TIXC for their school, even though there is also a district-level TIXC. In other situations, the TIXC and SBR coordinate together, as described above. In still other models, the TIXC has ultimate responsibility, but delegates some deputy and/or investigator tasks to the SBR. In single-school environments where there is no district, the TIXC and SBR roles are likely performed by the same administrator.

### Investigators

Investigators are individuals designated by a school/district to conduct reliable, prompt, fair, and impartial investigations of sex- and gender-based discrimination, misconduct, and/or reports, including: identifying and interviewing parties and witnesses; identifying, organizing, and compiling relevant information; maintaining accurate and thorough investigation records and notes; and writing clear, concise, and comprehensive investigation reports. The TIXC or designee ensures that the assigned Investigator(s) for any specific case have the appropriate knowledge and training (consistent with the requirements of 34 CFR §106.45 b(1)(iii)) and are free from conflicts of interest or disqualifying bias for or against any party involved in the reported incident(s) prior to case assignment or as soon as a potential conflict is apparent. Investigators responsible for incidents involving employee-on-student or employee-on-employee conduct are typically housed in the human resources or equity and compliance function, provided that your school/district does not have a centralized Title IX office. Investigators responsible for incidents involving student-on-student conduct may be located within the central district office or in individual schools depending upon needs and staffing. Typically, the Investigator is an administrator, not a security officer or SRO.

The assigned Investigator(s) are required to provide written notices and updates to the parties, including notification of any temporary delay or limited extension of the timeframes for investigation provided in policy and the reasons for that action. Notice will also be provided if the Investigator determines that there are additional allegations to investigate which were not included in the initial notice provided by the TIXC upon commencement of the investigation. In models in which the Investigator, not the TIXC, is responsible for the initial notice of allegations or notice of investigation, they would also provide any necessary updates or supplements.

## The Title IX Team

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### Investogators - cont.

The Investigator(s) shall provide equal opportunities for the parties to provide witnesses and identify inculpatory and exculpatory information, as well as equal opportunities for the parties to have advisors or support persons present during any proceeding. Any time a party is invited or expected to participate in a portion of the process, the party is provided written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, and provided sufficient time for the party to prepare to participate.

The investigator also provides the parties the same opportunity to review all evidence gathered during the course of the investigation, regardless of whether it will be used to make a decision. The evidence must be provided in a manner and in a timeframe that allows the parties to meaningfully respond to the allegations prior to completion of the investigation.

Upon completion of an investigation, the Investigator(s) produce an investigative report that fairly summarizes relevant information. The investigative report is typically reviewed for completeness and clarity by the TIXC and/or legal counsel prior to being shared with the parties. The Investigator provides the parties and their advisors with a copy of the investigative report that fairly summarizes the relevant evidence for their review, prior to the report being finalized. The investigator provides the parties at least ten days to review and provide a written response to the report.

Upon receipt of the written responses, the investigator shares them between the parties, considers the written comments, and incorporates as deemed appropriate. The final investigative report is then forwarded to the assigned Decision-Maker as determined by the TIXC and school/district policy.

## The Title IX Team

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### Decision-Makers

Decision-Makers are individuals or panels who have the authority to determine whether or not school/district policy was violated, in accordance with the specified standard of proof. They also typically determine appropriate remedies and corrective action/sanctions. The TIXC may not serve as a Decision-Maker, nor may the individual(s) who investigated the reported incident(s). Decision-Makers must be appropriately trained (consistent with the requirements of 34 CFR §106.45 b(1)(iii)) and be free from conflicts of interest or disqualifying bias for or against any party involved in the reported incident(s). For incidents in which a student is the responding party, the Decision-Maker is commonly a school-based administrator. However, if suspension or expulsion may result, the school's/district's due process procedures are likely applicable. For incidents in which an employee or third-party is the responding party, the Decision-Maker is most often an individual or panel from the human resources department.

Under applicable Title IX Regulations, elementary and secondary schools may choose to offer or not offer a live hearing opportunity and should explicitly state under which circumstances a hearing will be available. Irrespective of Title IX Regulations, state law or school/district rules (e.g.: Collective Bargaining Agreements) may require a formal hearing, and those rules should be followed. Regardless of whether or not a live hearing is conducted, the Decision-Maker must ask each party and any witnesses any relevant questions and follow-up questions, including those challenging credibility, which a party wants asked of any party or witnesses. If no hearing is held, and upon receipt of the investigation report, the Decision-Maker must afford each party the opportunity to submit written questions, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The Decision-Maker must explain to the party proposing the questions any decision to exclude questions as not relevant.

If the school/district provides an opportunity for a live hearing, the Decision-Maker will facilitate the hearing process, including permitting the party's advisor (not the parties) to ask the other part(ies) and any witnesses all relevant questions and follow-up questions, including those challenging credibility. A party may request that the hearing take place with the parties located in separate rooms with technology enabling the Decision-Maker and the parties to simultaneously see and hear the party or witness answering the questions.

## The Title IX Team

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### Decision-Makers - cont.

Before a question is answered, the Decision-Maker must determine the relevance of the question, and explain, in the record, any decision to exclude questions as not relevant. Additionally, the live hearing must be audio or audiovisual recorded and made available to the parties for review.

With or without a hearing, all questioning must exclude irrelevant information about the reporting party's sexual predisposition or prior sexual behavior or, though such information may be offered to prove that someone other than the responding party committed the alleged conduct, or when the information concerns specific incidents of the reporting party's sexual behaviors with respect to the responding party, and is offered to prove consent.

Upon the conclusion of the questioning or hearing, the Decision-Maker issues a written determination to all parties and their parent/guardian (if a minor) simultaneously. Such determination may not rely upon any statement of any party or witness who does not make themselves available for questioning by the Decision-Maker or cross-examination during the live hearing. The written determination includes:

- i. Identification of the section(s) of the school/district's code of conduct alleged to have been violated;
- ii. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- iii. Findings of fact supporting the determination;
- iv. Conclusions regarding the application of the school/district's code of conduct to the facts;
- v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions the school/district imposes on the responding party, and any remedies provided to the reporting part(ies) designed to restore or preserve access to the education program or activity; and
- vi. The procedures and permissible bases for the reporting and responding parties to appeal.



## The Title IX Team

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### Appeal Decision-Makers

If a school/district offers an opportunity to appeal the Decision-Maker's original decision, the case will then be assigned to an Appeal Decision-Maker. An Appeal Decision-Maker may be an individual or a panel and cannot have otherwise been involved in the case up to the point of receiving an appeal request. Appeal Decision-Makers must be appropriately trained (consistent with the requirements of 34 CFR §106.45 b(1)(iii)) and be free from conflicts of interest or disqualifying bias for or against any party involved in the reported incident(s).

The Title IX Regs require a school/district to offer an appeal to the parties, and require that the parties have an equal opportunity to appeal. The Regs require specific grounds for appeal in CFR §106.45 b(8), which you must incorporate into your school/district procedures. Upon receipt of an appeal, the Appeal Decision-Maker must notify the other part(ies) that the appeal has been submitted. Each party is given a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. ATIXA recommends that the Decision-Maker submit a written response addressing any alleged process errors occurring during the questioning/hearing portion of the case resolution and/or any specific issues raised about how they reached their decision. This response must be shared with the parties.

Following a complete review of all submitted information for consideration in the appeal, the Appeal Decision-Maker issues a written determination to all parties and their parent/guardian (if a minor) simultaneously. Such determination includes the result of the appeal and the rationale for the result.

Appeal Decision-Makers are often school principals or district-level administrators, but when a long-term suspension, expulsion, or employment termination is involved, the Appeal Decision-Maker is often the Board of Education. In cases in which the Board of Education serves as the appellate body, those proceedings may be governed by separate Board policies and procedures. However, it is important to ensure that those Board policies and procedures incorporate the procedural requirements mandated under the new Title IX regulations, and that those individuals are trained appropriately.

## The Title IX Team

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### Advisors

An Advisor is an individual selected by a party to assist them throughout the resolution process. The Advisor can be anyone, including an attorney or a parent. While schools or districts cannot restrict who an individual selects as their Advisor, ATIXA recommends that the parties be advised of the potential issues related to choosing an Advisor who has a conflicting role within the process, such as being a witness<sup>11</sup>, co-responding party, etc. In situations involving minors, it is common for a parent/guardian to serve as the Advisor; however, it can be difficult to remain objective as an Advisor in those circumstances. A school/district may restrict the Advisor's role in the process, such that they are not allowed to provide evidence directly, but may assist the party during interviews, meetings, and any hearing. If the school/district holds a hearing, the Advisor may be given the opportunity to question/cross-examine witnesses and the other part(ies).

### Advocates

Advocates are individuals who may or may not be employed by a school/district for the purpose of providing confidential support and resources independent of or in conjunction with a sex- or gender-based discrimination, misconduct, and/or retaliation resolution process. Advocates are typically trained to provide crisis response services and connection to law enforcement, legal, health, and other emergency services. Advocates are often involved in helping to ensure the provision of supportive measures for the parties, such as academic adjustments, employment adjustments, safety planning, coordination of medical or mental health services, etc.

In elementary and secondary schools, school social workers or school psychologists may be able to provide some of these services for students, and employee assistant programs (EAP) may be equipped to provide basic services to employees, but they likely lack the comprehensive training to provide full-scale advocacy services, in which case the school/district may establish an MOU with a local advocacy organization to provide these services.

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<sup>11</sup> Generally, witnesses do not have process advisors themselves, though any witness can be advised outside the process if they choose to be.

## The Title IX Team

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### Responsible Employees

Responsible Employees are those individuals designated by a school/district who have a responsibility to promptly notify the TIXC (or designee) when they receive information that may involve a possible violation of Title IX. Under the Title IX Regulations, all school/district employees are deemed Responsible Employees and are therefore required to report all information they learn regarding a potential Title IX issue to the TIXC or designee. This obligation is separate from child abuse reporting statutes and requirements, and where these duties overlap, employees must make notifications that satisfy both state law and Title IX. The only exception to the reporting requirement are those individuals who have a legal and/or ethical obligation to keep information confidential, such as licensed mental health providers, clergy, or medical personnel, who are acting in their capacity when the disclosure is made. Even still, when these professionals learn of actual or suspected child abuse, ethics and state laws require a report to either law enforcement and/or child protective services. If the abuse is also a possible Title IX issue (e.g.: sexual abuse), then a report must also be made to the TIXC.

Training for Responsible Employees should occur both during their onboarding process when joining the school/district or transitioning into a role that is designated as a Responsible Employee, and at regular intervals throughout their employment.

Individuals who are not employed by the school/district cannot be designated as Responsible Employees; however, they can be trained on the reporting procedures and encouraged or directed to follow them. It is advisable to provide training to non-employees who volunteer in any capacity within the school/district.

Upon enrollment, students and their parents/guardians should be made aware of reporting expectations for employees. Responsible Employees should be well-versed in the resolution process and available resources and provide such information to any individual who makes a disclosure involving sex- or gender-based discrimination, harassment, and/or retaliation.

## The Title IX Team

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### Legal Counsel

The involvement of Legal Counsel (hereinafter Counsel) in Title IX-related matters will vary greatly depending upon the culture of the school/district and whether or not Counsel is in-house. In any Title IX instance, Counsel should be serving in an advisory capacity rather than an investigatory or decision-making role. Counsel can be especially helpful in navigating intersecting, overlapping, and conflicting laws, policies, and regulations. Many schools/districts will have a Counsel representative present any time a party has selected an attorney as their Advisor. Counsel may also assist with responding to records requests, subpoenas, and advising schools/districts of potential risks of various courses of action. You should be aware of what, if any, school/district policies are in place that indicate when you need to involve your Legal Counsel in your Title IX process.

## **Title IX Coordinator Checklist**

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- Receive annual training on the Regs's definition of sexual harassment, sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking, due process, remediation, supportive and interim measures, long-term remedies, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias, training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, issues of relevance to create an investigative report that fairly summarizes relevant evidence;
  - Ensure that all TIXCs, investigators, decision-makers and any person that facilitates any kind of Title IX-based resolution (including informal) are trained according to these requirements;
- Notify applicants for admission (if applicable) and employment, students, parents/guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the school/district:
  - Of the school's/district's grievance procedures to students, parents/guardians, and employees, including how to report sex discrimination and how to file or respond to a complaint of sex discrimination.
    - Indicate that a report can be made by anyone at any time.
  - Of the name or title, office address, e-mail address, and telephone number of TIXC and other Title IX contacts.

## **Title IX Coordinator Checklist - cont.**

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- o That the school/district does not discriminate on the basis of sex in its education programs or activities – including admissions (if applicable) and employment – and that the school/district is required by Title IX to not discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to employment and admission, and that inquiries about the application of Title IX may be referred to the TIXC, to the U.S. Department of Education's Office for Civil Rights, or both.
  - o This policy statement must be prominently displayed on the school's/district's website and in each handbook or catalog that it makes available to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the school/district.
- An initial review of a report of sex- or gender-based discrimination, misconduct, and/or retaliation will include:
  - o Assessment of the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the reporting party, the responding party, any witness, and/or any other individual with knowledge of the reported incident;
  - o Addressing immediate physical safety and emotional well-being concerns;
  - o Notifying the reporting party of their right to contact (or decline to contact) law enforcement or seek a civil protection order;
  - o Notifying the reporting party of the right to seek medical treatment;
  - o Notifying the reporting party of the importance of preservation of evidence;
  - o Providing the reporting party with written information about in-school and external resources;
  - o Notifying the reporting party of the range of supportive measures available, regardless of whether they choose to participate in a school or law enforcement investigation;
    - o Consider the wishes of the reporting party with respect to supportive measures

## Title IX Coordinator Checklist - cont.

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- o Providing the reporting party with an explanation of the available procedural options, including the process for filing a formal complaint;
  - o Discussing the reporting party's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
  - o Notifying the reporting party of the right to be accompanied at any meeting by an Advisor of their choice;
  - o Assessing for any pattern of conduct by the responding party;
  - o Assessing for any pattern of conduct in the reported location of the incident(s);
  - o Explaining the policy prohibiting retaliation, that the school/district will take prompt action when retaliation is reported, and how to report acts of retaliation; and
  - o Determining the age of the reporting party; and if the reporting party is a minor or was a minor at the time of the reported incident(s), make the appropriate notifications under policy and law<sup>12</sup>.
- Ensure that the responding party is notified and receives written information on available resources and options, consistent with the list outlined above, as applicable.
  - Train all employees on their reporting obligations.
    - o Provide individuals making a disclosure with information about reporting and support options.
  - Coordinate an emergency removal process that uses an individualized safety and risk analysis, removing only when the school/district determines there is an immediate threat to the physical health or safety of a student
    - o Provide the opportunity for an immediate challenge of the removal
  - Keep confidential the identities of the reporting party, responding party, any third-party reporter, and any witness, except as permitted by FERPA, or to carry out the purposes of Title IX.
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<sup>12</sup> Baylor University's Sexual and Gender-Based Harassment and Interpersonal Violence Policy-  
<https://www.baylor.edu/titleIX/doc.php/249242.pdf>

## **Title IX Coordinator Checklist - cont.**

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- Coordinate with appropriate school or community partners to implement supportive measures as applicable for both reporting party and responding party.
- Select one or more appropriately trained and knowledgeable Investigator(s) for the case and provide all relevant information collected to that point to the Investigator(s).
- Oversee an equitable appeals process that:
  - o Allows for an appeal if a formal complaint is dismissed
  - o Notifies the parties when an appeal has been filed
  - o Provides the parties a reasonable, equal opportunity to submit a written statement in support of, or challenging an appeal;
  - o Uses an impartial appeals officer or panel;
  - o Allows the parties to appeal on the specifically articulated grounds (listed in the Regs)
  - o Provides a written decision, including a rationale for the result, simultaneously to the parties;
- Provide for effective implementation of all remedies.
- Monitor and record compliance with all assigned sanctions.
- Ensure First Amendment protections in relation to Title IX issues.
- Create and maintain (for seven years) records of any actions taken, including supportive measures, in response to a formal complaint of sexual harassment;
  - o Document the basis for its conclusion that its response was not deliberately indifferent;
  - o Document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity;
  - o If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances
  - o Any appeals and the result therefrom



## **Title IX Coordinator Checklist - cont.**

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- o Any informal resolution and the result therefrom
- o Maintain copies of all materials used to train Title IX Coordinators, investigators, decision-makers and any person who facilitates an informal resolution process.
- o Make these materials available on the school/district website, or if the school/district does not have a website, make the materials available for inspection.
- Upon receipt of a formal complaint, the TIXC or designee must provide written notice to the parties who are known, with sufficient details and with sufficient time for the parties to prepare a response before any initial interview, including:
  - o Notice of the school's/district's grievance procedures (usually provided by a web link);
  - o Notice of the allegations constituting a potential violation of the school's/district's policy including sufficient details known at the time, and with sufficient time to prepare a response before any initial interview;
  - o The identities of the parties involved in the incident(s), if known;
  - o The specific section of the policy that was allegedly violated;
  - o The specific conduct allegedly constituting a policy violation;
  - o The date, time, and location of the alleged incident(s), if known;
  - o That the parties may have an advisor of their choice, who may be an attorney, who has a right to inspect and review evidence;
  - o A statement that the responding party is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
  - o The right of the parties to request to inspect and review information obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including information upon which the school does not intend to rely in reaching a determination regarding responsibility;
  - o Prohibition against knowingly making false statements or knowingly submitting false information in the grievance process;

## **Title IX Coordinator Checklist - cont.**

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- o The name and contact information of the assigned Investigator(s);
- o Information about the parties' respective rights and responsibilities;
- o The school's prohibition against retaliation;
- o The importance of preserving any potentially relevant information in any format; and
- o How to challenge participation by the Investigator(s) or Decision-Maker(s) on the basis of a conflict of interest or disqualifying bias.

## **Deputy Title IX Coordinator Checklist**

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- Receive annual training on the Regs' definition of sexual harassment, sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking, due process, remediation, supportive and interim measures, long-term remedies, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias, training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, issues of relevance to create an investigative report that fairly summarizes relevant evidence;
- Notify TIXC of population- or function-specific concerns or issues raised implicating potential sex- or gender-based discrimination, misconduct, and/or retaliation;
- Provide TIXC with copies of all training, prevention, and awareness materials as well as attendance or completion records, as applicable;
- Consult with TIXC regarding any sex- or gender- based policy, process, or protocol changes before they are finalized;
- Assist the TIXC as assigned.

## School-Based Representative Checklist

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- Receive annual training on the Regs' definition of sexual harassment, sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking, due process, remediation, supportive and interim measures, long-term remedies, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias, training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, issues of relevance to create an investigative report that fairly summarizes relevant evidence;
- Report all disclosures to TIXC and coordinate response, including support measures, contacting parents/guardians, whether or not an investigation is required, and external reporting.
- Arrange and implement support measures as appropriate.
- Maintain documentation of all actions taken.

## Investigator Checklist

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- Receive annual training on the Regs' definition of sexual harassment, sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking, due process, remediation, supportive and interim measures, long-term remedies, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias, training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, issues of relevance to create an investigative report that fairly summarizes relevant evidence;

## **Investigator Checklist - cont.**

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- Self-check that there aren't any conflicts of interest or disqualifying biases of any Investigator for or against any party involved in the assigned case.
- Identify and interview parties and witnesses.
- Identify, organize, and compile relevant information.
- Maintain accurate and thorough investigation records and notes, including:
  - o Dates, times, means, and content of communication with parties, witnesses, Advisors, TIXC, Counsel, and/or others;
  - o Date, times, means, and content of non-verbal information submitted for consideration in the investigation, such as photos, recordings, or screenshots.
- Compile a clear, concise, and comprehensive investigative report.
- Provide written notices and updates to the parties, including any temporary delay or limited extension of the timeframes for investigation provided in policy and the reasons for that action.
- Provide written notice to the parties if the Investigator determines that there are additional allegations to investigate which were not included in the initial notice provided by the TIXC upon commencement of the investigation.
- Provide equal opportunities for the parties to provide witnesses and inculpatory and exculpatory information and equal opportunities for the parties to have others present during any proceeding.
- Provide written notice any time a party is invited or expected to participate in a portion of the process; the party is provided written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, and provided sufficient time for the party to prepare to participate.
- Produce an investigative report that fairly summarizes relevant information.
- Provide the investigative report to the TIXC to review for completeness prior to being sharing with the parties.
- Provide the parties a copy of the investigative report for their review and response at least ten days prior to a hearing or other decision-making process.

## Decision-Maker Checklist

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- Receive annual training on the Regs' definition of sexual harassment, sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking, due process, remediation, supportive and interim measures, long-term remedies, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias, training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, issues of relevance to create an investigative report that fairly summarizes relevant evidence;
- Self-check that there aren't any conflicts of interest or disqualifying bias of any Decision-Maker for or against any party involved in the assigned case.
- Review the investigation report prior to the questioning period/hearing and prepare questions for each of the parties.
- Provide written notice any time a party is invited or expected to participate in a portion of the process; the party is provided written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, and provided sufficient time for the party to prepare to participate.
- Facilitate questioning in lieu of a hearing if specified by procedures, including collecting questions for the parties and witnesses from each of the parties.
  - Document questions that were deemed not relevant during the questioning period and the rationale for those decisions.
- Facilitate hearing according to procedures.
  - Document questions intended for parties or witnesses who were not present for the live hearing.
  - Document questions which were asked and a party or witness declined to answer.
  - Document questions that were deemed not relevant or inappropriate during cross-examination.

## Decision-Maker Checklist - cont.

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- Provide a written determination to the parties, and their parent/guardian (if a minor), simultaneously. The written determination must include:
  - o Identification of the allegations potentially constituting sexual harassment;
  - o A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - o Findings of fact supporting the determination;
  - o Conclusions regarding the application of the code of conduct to the facts;
  - o A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions the school imposes on the responding party, and any remedies provided to the reporting party designed to restore or preserve access to the education program or activity; and
  - o The school/district's procedures and permissible bases for the parties to appeal.

## Appeal Decision-Maker Checklist

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- Receive annual training on the Regs' definition of sexual harassment, sex- and gender-based discrimination, misconduct, and retaliation, including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking, due process, remediation, supportive and interim measures, long-term remedies, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias, training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, issues of relevance to create an investigative report that fairly summarizes relevant evidence;

## Appeal Decision-Maker Checklist - cont.

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- Provide an equitable appeals process;
- Self-check that there aren't any conflicts of interest or disqualifying bias of any Appeal Decision-Maker for or against any party involved in the case or involving any Investigator or Decision-Maker in the assigned case.
- Review submitted appeal to determine whether it cites any of the permissible grounds for appeal
- Notify all parties in writing upon receipt of an appeal, including providing options and deadlines for their response to the appeal.
- Circulate all appeal materials for review and comment by the parties and Decision-Maker.
- Review all information submitted in the appeal and comments by the parties and Decision-Maker by the specified deadline.
- Make a determination for each appeal ground cited in the appeal request.
- Provide a written determination to the parties, and their parent/guardian (if a guardian), simultaneously, including the result of the appeal and the rationale for the result.

## Advisor Checklist<sup>13</sup>

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- Receive annual training on policy, process, and Advisor responsibilities and effective advising.
  - o If a hearing is used by the school/district, receive training on questioning, if applicable.
- Ensure that the party understands the role of the Advisor in the process.

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<sup>13</sup> Applicable when the advisor is an employee or contractor of the district or school.

## Advisor Checklist - cont.

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- Assist the party with preparing for any interviews, meetings, or hearings.
  - o Review all evidence
  - o Listen to party's account of the reported incident(s) without judgment.
  - o Explain process steps as applicable.
  - o Discuss information that may be relevant to submit for consideration.
  - o Discuss potential relevant witnesses.
- If a hearing is used by the school/district, prepare and question/cross examine the parties and witnesses during the hearing, if applicable.

## Advocate Checklist<sup>14</sup>

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- Receive annual training on policy, process, advocacy responsibilities and effective advocacy.
- Receive annual training on sex- and gender-based discrimination, misconduct, and retaliation including, but not limited to, sexual harassment, intimate partner violence (dating violence, domestic violence), sexual assault, and stalking.
- Collect and disseminate resource information for school- and community-based law enforcement, legal, health, and other emergency services.
- Establish working relationships with local emergency service providers and community resources.

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<sup>14</sup> Applicable when the advocate is an employee or contractor of the district or school.



## **Responsible Employee Checklist (for all employees)**

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- Complete Responsible Employee training during employee onboarding process and during regular intervals as specified by the district/school.
- Promptly report any disclosure of potential sex- or gender-based discrimination, misconduct, and/or retaliation to the TIXC (or designee).
- Refrain from discussing any disclosures with anyone other than the TIXC or designee.
- Avoid treating any party differently based on a disclosure of alleged sex- or gender-based discrimination, misconduct, and/or retaliation.

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### CONTACT INFORMATION

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