



METRO
NASHVILLE
PUBLIC
SCHOOLS

Title IX Regulations

Charter Schools

Adapted from:

Carly G. Elliott

MNPS Executive Director of Civil Rights

& Title IX Coordinator

- Overview: New Title IX Regulations
- Reporting
- Definitions
- Sexual Harassment Defined
- Complaints
- Investigations
- Decision making & Appeals
- Retaliation
- Charter School To-Do List

AGENDA



Overview: New Title IX Regulations

May 6th USDOE
issued 2083 pages
of new Title IX
Regulations

Implementation date
was August 14th

Each Charter
School must
adopt a Title
IX & Sexual
Harassment
Policy



Title IX

- Title IX encompasses many areas - discrimination on the basis of sex, athletics, gender expression, etc.
- These new regulations only address a small portion of Title IX as it relates to sexual harassment



Reporting

All staff must report potential sexual harassment to your charter school Title IX Coordinator



Who Reports?

- **Before**, notice was only triggered by school staff with the ability to institute disciplinary action - like principals.
- **Now**, any and all staff are responsible for reporting potential Title IX sexual harassment violations.



Definitions

- **Complainant:** alleged to be the *victim* of conduct that could constitute sexual harassment.
- **Respondent:** reported to be the *perpetrator* of conduct that could constitute sexual harassment.



Definitions: Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

1. A school district employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking as defined in state and federal law.



Definition of Sexual Harassment

Severe, pervasive, *and* objectively offensive is a new, higher standard for harassment.

Must have all three.

Other areas of harassment use the “or” standard.



Severe, Pervasive, and Objectively Offensive

Conduct effectively denies access to education program or activity . . .

Need all three

- **Severe:** subjective analysis that looks at things like whether the act is humiliating or threatening and whether it prevents educational access
- **Pervasive:** means more than a single incident
- **Objectively offensive:** judged by what a reasonable person would find offensive or unwelcome



Examples of Sexual Harassment

Sexually suggestive remarks

Verbal harassment or abuse

Sexually suggestive pictures

Sexually suggestive gesturing

Harassing or sexually suggestive or offensive messages

Subtle or direct propositions for sexual favors

Touching of a sexual nature



When to Report to Title IX Coordinator?

Hypotheticals

Likely Do
Not Report

- A single instance of inappropriate name calling
- A single instance of inappropriate touching or gesturing

Likely Report

- An incident involving sexual photos or videos, particularly involving students
- Multiple instances of inappropriate touching or gesturing



No Discipline Without Investigation

REMEMBER - If you are considering using a sexual harassment discipline code then PAUSE and consult with your Title IX Coordinator

You cannot discipline or remove for sexual harassment without a formal investigation





Grievance Process

This process is all new ...

After report, the Title IX Coordinator must assess whether conduct potentially rises to the level warranting Title IX investigation

If a Title IX investigation is necessary, the Title IX Coordinator or designee (principal) will contact the student(s), offer supportive measures, and explain the process for filing a formal complaint

If student decides to file a formal complaint, or if Title IX Coordinator signs a formal complaint, an investigator will investigate.

The investigator cannot be the Title IX Coordinator.



Grievance Process Cont.

- Emergency Removal - only if threat to safety
- Employees can be placed on admin leave or suspension without pay to investigate employee on student misconduct



Investigations

- Investigation only occurs if a formal complaint is signed by complainant or by the Title IX Coordinator
- 48 hours to initiate the investigation after formal complaint
- All parties receive investigative report and all evidence to review (no confidentiality, FERPA doesn't apply) and have 10 days to respond
- Investigative report summarizing evidence sent to parties, guardians, and decisionmaker



Determination of Responsibility

Decisionmakers = Must be different person from Title IX Coordinator and Investigator

Preponderance Standard (more likely than not)

Parties can submit written cross exam questions

Make decision 10 days after receiving answers

Written report on decision

Substantiated charges can result in disciplinary action including expulsion or termination



Appeals

- **Appeals officer = Must be different person from Title IX Coordinator, Investigator, and Decisionmaker**
 - Either party may appeal w/in 10 days on one of the following bases:
 1. Procedural irregularity
 2. New evidence
 3. Conflict of interest
 - Written decision within 10 days of the appeal



Retaliation

Retaliation against any person who makes a report or complaint or assists, participates, *or refuses to participate* in any investigation of an act alleged in this policy is prohibited.

Retaliation may result in disciplinary action.



Charter School Title IX To-do List

