



Title IX Training Orange Technical College 2024

- Keshara D. Cowans, Esq.
 - Staff Attorney
- District Title IX Coordinator



Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

-Title IX of the Education Amendments of 1972



Training Objectives

- Understand the definitions of sexual harassment and OTC education programs or activities
- Understand the Title IX grievance process
- Understand how to properly conduct a Title IX investigation and prepare an investigative report
- Understand the preponderance of the evidence standard
- Understand what information is required in a written determination

Title IX does not
prohibit a school from
enforcing their Code of
Student Conduct to
address misconduct
that does not
constitute Title IX
sexual harassment



Title IX Team

- **District Title IX Coordinator**
 - Responsible for coordinating OCPS & OTC compliance with Title IX regulations
- **School-based Title IX Coordinator/Investigator**
 - Responsible for coordinating Title IX compliance at an assigned school
 - Alternate school-based coordinators are required to assist with investigations, in case of absence, and or conflict of interest



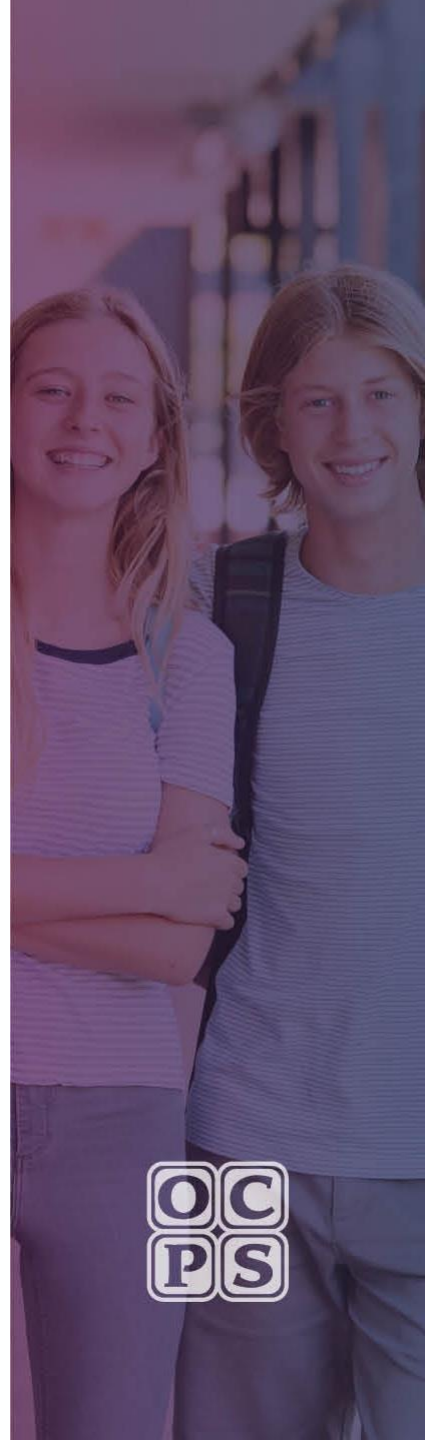
Title IX Team Continued

- **Hearing Officer**

- Reviews the evidence, determines responsibility for all formal complaints, and provides a written determination to the parties
- Cannot be the same person as the Title IX Coordinator/Investigator or appeals-decision maker

- **Appeals Decision-Maker**

- Responsible for reviewing the written determination and issuing a written decision describing the result and rationale for the appeal
- Cannot be the same person as the Title IX Coordinator/Investigator or decision-maker



Role of the Title IX Coordinator/Investigator

- Responsible for coordinating Title IX compliance at their assigned school
- Document all Title IX complaints
- Conduct a fair and impartial investigation of formal complaints that fall within the scope of Title IX
- Implement supportive measures and remedies
- Create an investigative report that fairly summarizes relevant evidence



Role of the Hearing Officer

- Determine whether the Code of Conduct has been violated based upon the preponderance of the evidence standard
 - **Conduct an independent assessment of the evidence**
 - **Remain free from conflict of interest and bias**
- Determine appropriate discipline when a Code of Conduct violation has been found
 - Draft a written determination that outlines the rationale for the finding(s)



Role of the Appeals Decision-Maker

- Make a determination on a party's request for an appeal
 - Review written submissions from parties
- Review investigative report and all evidence from the underlying investigation
 - Case review is limited to the grounds listed in the appeal request
- Draft a written determination that outlines the rationale for the outcome

Conflict of Interest & Bias

- Grievance process must treat both parties equitably
- Does the Title IX Coordinator have an additional professional relationship with either the complainant or respondent?
 - ✓ Club Sponsor
- If so, the Title IX Coordinator should be recused and the alternate Title IX Coordinator should handle the investigation.
- Does the Title IX Coordinator have a familial relationship with either the complainant or respondent?
 - If so, the Title IX Coordinator should be recused and the alternate Title IX Coordinator should handle the investigation.
 - ***Submit Request for Reassignment Form***

Conflict of Interest & Bias

- The hearing officer must also be free from a conflict of interest or bias toward either the complainant or respondent.
- If the hearing officer has a conflict of interest, they will need to notify the District Title IX Coordinator so that another hearing officer can be appointed to review the Title IX matter.
- **Examples of conflict include:**
 - Familial relationship
 - Additional professional relationship

Complainants and Respondents

Complainant:

- An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

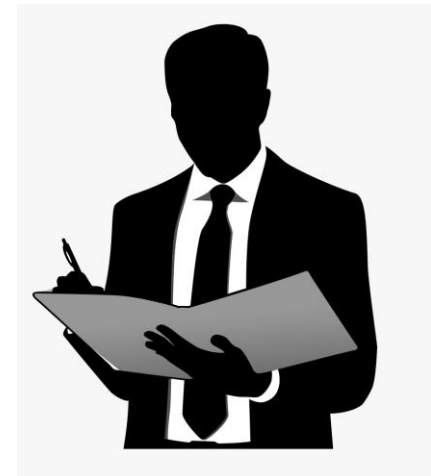
Respondent:

- An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.



Advisors

- The complainant and respondent are entitled to have one **(1)** advisor of their choosing. The advisor may attend any meeting or interview with their party
- If a party does not have an advisor, OTC must provide an advisor without fee or charge
- Request for an advisor must be made at least five **(5)** school days prior to the hearing
- Advisors may attend interviews; however, they may not serve as a proxy for the party.
- Advisors may provide guidance and assistance throughout the process, however, all written submissions must be authored by the complainant or respondent.
- **Examples:**
 - Parent
 - Family Friend
 - Attorney
 - Coach
 - Youth Pastor



Advisors

- The following restrictions will be placed on advisors for **both** parties:
- Advisors may attend interviews with their party only at their party's request;
 - Advisors shall not restrict access to their party;
 - **Must advise in writing if their party will not participate in the process**
 - **Unable to advise their party to “avoid” the investigation**
- Advisors are only permitted to use the investigative report and evidence received for inspection and review for purposes of the grievance process;
- Advisors will be required to abide by a non-disclosure agreement that complies with both Title IX and FERPA; and
 - Advisors may not request education records that are protected by FERPA
 - (i.e. prior discipline records of either party)

Sexual Harassment

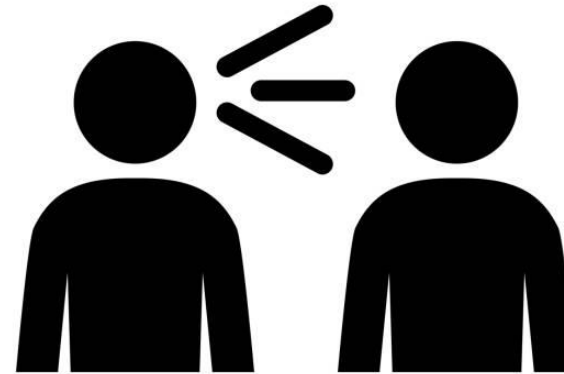
- ***Sexual harassment*** is defined as conduct on the basis of sex that satisfies one (1) or more of the following:
 1. A school employee conditioning the provision of aid, benefits, or services on the individual's participation in unwelcome sexual conduct (**quid pro quo**);
 2. Unwelcome conduct that a reasonable person would determine to be so **severe, pervasive, and objectively offensive** that it denies a person equal access to the education program or activity; or
 3. ***Sexual assault***, as defined in the Clery Act, or dating violence, domestic violence or stalking, as defined in the Violence Against Women Act.

Severe & Pervasive

- Allegations of physical contact are more likely to be considered severe
- Consider the circumstances:
 - Did the complainant have the ability to escape the harassment?
- Determine if the conduct was widespread or openly practiced
- Frequency of the conduct is often a variable in assessing pervasiveness
 - **Intensity**
 - **Duration**
- Was there an unreasonable interference with the educational program or activity

Objectively Offensive

- Reasonable person standard
- Age and relationship of complainant and respondent are considered
- Number of persons involved
- Frequency
- Humiliation



Sexual Assault

- An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:
 - Rape
 - Fondling
 - Statutory Rape
 - Incest



Dating Violence

- Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following:
 - **Length of the relationship;**
 - **Type of relationship; and**
 - **Frequency of interaction between the persons involved in the relationship**
- Dating violence includes sexual or physical abuse or the threat of such abuse



Dating Violence

Examples of dating violence:

- Pushing, shoving, biting, spitting, slapping, shaking, punching, scratching, kicking, beating, pinning down, or other similar behavior
- Breaking property, punching holes in the wall, throwing things or throwing things towards a person
- Pushing hands against the face, covering mouth and nose, squeezing the neck causing difficulty in breathing, or grabbing the face to force to look at them
- Using a weapon, threatening to use a weapon, or reminding that a weapon can be obtained or that other people can perpetrate the harm
- Threatening to harm physically or sexually

***All threats
should be
forwarded to
discipline for an
investigation!***

Domestic Violence

- Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim,
 - By a person with whom the victim shares a child in common,
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

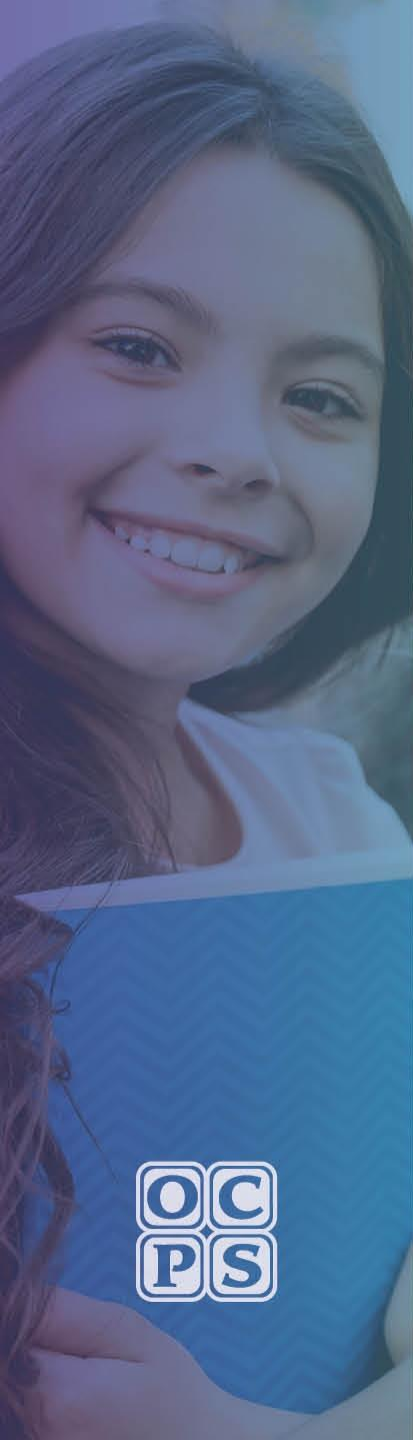
Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for his or her safety or the safety of others; or
- Suffer substantial emotional distress

For the purpose of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.



Stalking

Examples of Stalking:

- Persistent following around before, during, and after class hours
- Waiting around, showing up, or driving by wherever currently located, such as home, work, or school
- Using social media to track or find out current location
- Constantly calling, texting, or video-chatting
- Calling at work or calling boss and coworkers
- Using spoofing apps when calling to show up as a different person on caller ID
- Monitoring personal phone calls or computer use with or without personal knowledge of the monitoring
- Sending unwanted letters, cards, emails, or gifts



Education Program or Activity?

Schools must address allegations of sexual harassment that occur in “the school’s education program or activity, against a person in the United States.”

- “Education program or activity” is broadly defined to include locations, events, or circumstances over which the school exercises **substantial** control over both the respondent **and** the context in which the sexual harassment occurs.
- **Examples:**
 - School-funded, -sponsored, or -promoted trips
 - Sporting events
 - School Dances
 - Extracurricular programs or activities
 - Virtual Learning

Buildings or other locations that are part of the school’s operations, including remote learning platforms

- The operations of a school may include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the school



Substantial Control

Example scenarios of a school exercising substantial control:

- An incident of sexual harassment between two students in a private hotel room which occurred in a context related to a school-sponsored activity, such as a school field trip or travel with a school athletics team.
- An incident that occurred in a student's home, such as where a teacher employed by a school visits a student's home ostensibly to give the student a book but in reality to instigate sexual activity with the student.
- A student using a personal device to perpetrate online sexual harassment to another student during class time.

Denying Equal Access to an Education Program or Activity

Examples of effectively denying equal access to a school's education program or activity:

- Skipping class to avoid a harasser
- A decline in a student's grade point average
- Having difficulty concentrating in class
- A student who quits a sports team but carries on with other school activities following sexual harassment

Denying Equal Access to an Education Program or Activity

While the previous examples help illustrate an effective denial of access, **no concrete injury is required** to prove an effective denial of equal access.

- Complainants do not need to have dropped out of school, failed a class, had a panic attack, or otherwise reached a 'breaking point' or exhibited specific trauma symptoms
- A complainant does not need to have already suffered loss of education before being able to report sexual harassment
- Effective denial of equal access to education also does not require that a person's total or entire educational access has been denied

School officials turning away a complainant by deciding the complainant was "not traumatized enough" would be **impermissible**

Attempting to Participate in an Education Program or Activity

- **Examples of situations of a complainant “attempting to participate” in a school’s education program, include when a complainant:**
 - Has withdrawn from the school due to alleged sexual harassment and expresses a desire to re-enroll if the school responds appropriately to the allegations;
 - Has graduated but intends to apply to a new program or intends to participate in alumni programs and activities;
 - Is on leave of absence and is still enrolled as a student or intends to re-apply after the leave of absence; or
 - Has applied for admission.

The Title IX Process

- Incident
- Assessment
 - Scope of Title IX
 - Dismissal
- Investigation
- Determination
- Appeal

Timeline	Explanation
Investigation Completed	The Title IX Investigation must be completed within five (5) school days of the initial interviews of Complainant and Respondent, whichever is later. (See School Board Policy JB Equal Educational Opportunities for any exceptions).
Response to Evidence	Parties have ten (10) school days to submit a written response to the evidence.
Investigative Report	Investigative Reports must be sent ten (10) calendar days prior to the hearing.
Feedback on Investigative Report	Parties have ten (10) calendar days from the date of the investigative report to submit a written response.
Written Determination	The written determination along with a Request for Appeal Form must be provided simultaneously to the Parties within three (3) school days .
Emergency Removal	After individual safety and risk analysis is completed - Parties have two (2) school days to challenge the decision. NOTE: Immediately convene the School Threat Assessment Team (STAT) to conduct the safety and risk analysis.
Notice of Dismissal	Notice of Dismissal must be sent within twenty-four (24) hours or no more than two (2) school days .
Hearing Officer Identified	A hearing officer is selected. The hearing officer is trained to be un-biased, to determine the facts of the situation, and to ultimately decide the outcome.
Establish an Advisor of Choice	Parties get one (1) Advisor AND parties must request an Advisor at least five (5) school days prior to the hearing. (OTC is obligated to appoint an Advisor if a party does not have one).
Hearing Notice	Hearing notices must be sent at least ten (10) school days prior to the hearing.
Hearing File	The hearing file is distributed to the Complainant, Respondent(s), and their advisors five (5) school days prior to the hearing. The hearing file includes the investigation report including documentary information and evidence, the outline of the hearing, the people that will be present, and any additional supporting documents.
Outcome Letter	An outcome letter is sent within two (2) school days of the hearing. The outcome letter will outline if there is a finding of a violation of the Student Code of Conduct or Title IX, and if so, any applicable sanctions that were assigned.
Appeal	Parties may appeal within two (2) school days of the written determination or dismissal. The written determination is final if an appeal is not filed within the two (2) school days .
Notice of Appeal by Other Party	• Once a request for appeal is received; a notice of appeal must be sent immediately to both parties. • Parties have three (3) school days to submit a response in support of or challenging the outcome of the dismissal or the written determination.
Appeals Written Determination	Must be provided simultaneously to the Parties within five (5) school days .
Recordkeeping	Title IX records are required to be maintained for seven (7) years .

Title IX Complaint and Investigation Procedures can be found in [School Board Policy JB, Equal Educational Opportunities](#) and on the [Title IX Grievance Intranet](#) page.

Incident

- A Title IX Investigation begins with the reporting of an incident that meets the definition of sexual harassment that has occurred in an education program or activity in which the District has substantial control over both respondent and the context in which the harassment occurred.
- When any OTC Title IX Coordinator or official with the authority to institute corrective measures has knowledge of sexual harassment or allegations of sexual harassment, OTC is obligated to respond
 - There is no requirement that the person be participating or attempting to participate in a school program or activity to report sexual harassment
- **All OCPS employees are required to report in writing any allegations of sexual harassment to the District Title IX Coordinator, school-based Title IX Coordinator, or appropriate area or district administrator**

Formal Complaint

- Formal complaints can be a written document or electronic submission which requests a sexual harassment investigation. Formal complaints can be filed by the complainant or the school-based Title IX Coordinator
- A formal complaint must be filed within ten **(10)** school days after the alleged incident. Reports should be made as soon as possible after the alleged conduct.
- At the time of filing the formal complaint, the complainant **must** be participating in or attempting to participate in an OCPS education program or activity
- ***Internal vs. External Formal Complaint Form***

<u>Timeline</u>	<u>Explanation</u>
Complaint Received	Schools are required to respond <i>within twenty-four (24) hours or no more than two (2) school days.</i>
Formal Complaint	Reports should be made as soon as possible after the alleged incident. A formal complaint must be filed <i>within ten (10) school days</i> after the alleged incident. OCPS is responsible for responding to complaints of which it has notice, even if notice is not received within the aforementioned time frame.
Scope of Title IX	Before beginning a Title IX Investigation you must complete the Scope of Title IX Determination Form. 1) If the alleged conduct falls within the scope of Title IX, complete the form and email immediately to titleix@ocps.net to obtain a case number. 2) If the alleged conduct does not meet the scope of Title IX, provide the completed form to your school's discipline administrator.

Formal Complaint

- Formal complaints involving allegations of sexual harassment arising from the same facts or circumstances may be consolidated:
- Against more than one **(1)** respondent
- If multiple complainants file a complaint against multiple respondents
- If one **(1)** party files a complaint against the other party

Immediate Reporting Requirements

Alleged sexual harassment that constitutes:

- 1) a **crime must** immediately be reported to your SRO or appropriate Law Enforcement Agency;
- 2) **child abuse must** immediately be reported to DCF and an A-4 Reporting Form **must** be completed; and/or
- 3) involves an **OCPS employee**, it **must** immediately be reported to Professional Standards.

Notice of Allegation(s)

Within two (2) school days letters **MUST** be sent:

- To Complainant and Respondent.

Initial Assessment

- Prior to any discipline being implemented the Title IX coordinator must conduct an initial assessment.
- ***Scope of Title IX Determination form***
- Title IX Coordinator must conduct an initial assessment to determine the following:
- Was a formal complaint filed? Does the Title IX Coordinator need to fill out the complaint form?
- Does the complaint fall within the Scope of Title IX?
 - ✓ Does the conduct meet the definition of sexual harassment?
 - ✓ Did the incident occur within an OCPS education program or activity?
 - ✓ Did the incident occur against a person in the United States?
- Is Dismissal required?



SCOPE OF TITLE IX DETERMINATION FORM

PURPOSE: This form should be used to determine whether the allegations presented to a Title IX Coordinator fall within the scope of sexual harassment as defined by Title IX of the Education Amendments Act of 1972 ("Title IX") prior to beginning a Title IX or discipline investigation.

DIRECTIONS: After completing this form, if you have determined that the alleged conduct falls within the scope of Title IX and a Title IX investigation will be initiated; email this form immediately to titleix@ocps.net to obtain a case number. If you have determined that the alleged conduct does not meet the scope of Title IX, provide this form to your school's discipline team for further handling.

Incident Information		
Incident Date:		Date Reported: Case No.:
School:		Learning Community: Location of Incident:
Complainant:	☐ Student ☐ Employee ID#	
Respondent:	☐ Student ☐ Employee ID#	
Allegations:		
Title IX Coordinator: Phone:		

SCOPE OF TITLE IX

The protections of Title IX extend to all academic, educational, extracurricular, athletic, and other programs of a school district, whether those programs take place in a school or an off-campus event that the school district sponsors. It protects both male and female students, faculty, and staff from sexual harassment by any school employees, non-employee, and other students.

BEFORE YOU BEGIN A TITLE IX INVESTIGATION one (1) of the following criteria MUST be met:

- 1) Did an OCPS employee condition the provision of an aid, benefit, or service of the school on an individual's participation in *unwelcome sexual conduct*?
☐ Yes ☐ No If yes, immediately report the incident to law enforcement and DCF. Refer the matter to Professional Standards to handle the investigation.
- OR
- 2) Was the unwelcome conduct determined by a reasonable person to be so 1) severe, 2) pervasive, and 3) objectively offensive that it effectively denies a person equal access to the school's education program or activity?
☐ Yes If yes, complete a full Title IX investigation.
☐ No If no, you DO NOT need to complete a Title IX investigation. **HOWEVER**, the school is required to address the allegations pursuant to the OCPS Code of Student Conduct.
- OR
- 3) Did the allegations involve sexual assault, dating violence, domestic violence or stalking?
☐ Yes ☐ No If yes, proceed to #4 below.
- 4) Did the sexual harassment, sexual assault, dating violence, domestic violence, or stalking occur during an OCPS educational program or activity against a person in the United States?
☐ Yes If yes, complete a full Title IX investigation.
☐ No If no, you DO NOT need to complete a Title IX Investigation. **HOWEVER**, you are required to address the allegations using a different process, which includes, notifying law enforcement, conducting an investigation pursuant to the OCPS Code of Student Conduct, and completing the A-4 Reporting Form.
- 5) If you answered YES to questions 2, 3 or 4 above, you will need to sign below and complete a full Title IX Investigation.
- 6) If you answered NO to any of the above questions, you will need to explain your reasons in detail below:
 - a) The allegations did not fall within the scope of Title IX as stated above because (explain):
 - b) *Since the allegations did not fall within the scope of Title IX, this matter was referred to the following:
Referral Date: Name: Department:
*A copy of this form must be provided to the person/department.

Signature of Title IX Coordinator	Print Name	Date

Reporting Sexual Harassment

- **Any** person may report sexual harassment, regardless of whether the reporting person is the alleged victim of the conduct
- A report can be made in person, by telephone, by mail, or by electronic mail to the District Title IX Coordinator or school-based Title IX coordinator
- A formal complaint must be filed ten **(10)** days after the alleged incident or the complaint may be deemed abandoned
- OCPS is responsible for responding to complaints of which it has notice even if notice is not received within the aforementioned time frame

Response to Sexual Harassment

- Schools must respond to knowledge of sexual harassment within twenty-four **(24)** hours or no more than two **(2)** school days
- Upon knowledge of sexual harassment the school-based Title IX Coordinator must:
 - Contact the complainant to discuss the availability of supportive measures
 - Consider the complainant's wishes with respect to the supportive measures
 - Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint
 - Explain the process for filing a formal complaint

Supportive Measures

Examples of supportive measures include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related assignments
- Modifications of class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures

- Non-disciplinary and non-punitive:
 - ✓ Change in class or lunch schedule at the request of the complainant or respondent
- Provided to all parties throughout the process
- Without unreasonably burdening the other party
- If supportive measures are not provided the Title IX Coordinator must document the file
- Even if the allegations do not fall under the scope of Title IX, the campus Title IX Coordinator can still offer supportive measures to the complainant



Supportive Measures

- **Examples of supportive measures include, but are not limited to:**
 - Counseling
 - Extensions of deadlines or other course-related assignments
 - Modifications of class schedules
 - Campus escort services
 - Mutual restrictions on contact between the parties
 - Leaves of absence
 - Increased security and monitoring of certain areas of the campus
 - Other similar measures



Actual Knowledge



Actual Knowledge

- All OCPS employees are required to report in writing any allegations of sexual harassment to the District Title IX Coordinator, school-based Title IX Coordinator, or appropriate area or district administrator
- When any Orange Technical College (OTC) Title IX Coordinator or official with the authority to institute corrective measures has knowledge of sexual harassment or allegations of sexual harassment, OTC is obligated to respond
 - A school may receive actual knowledge of sexual harassment from any person. There is no requirement that the person be participating or attempting to participate in a school program or activity to report sexual harassment

Notifying Law Enforcement

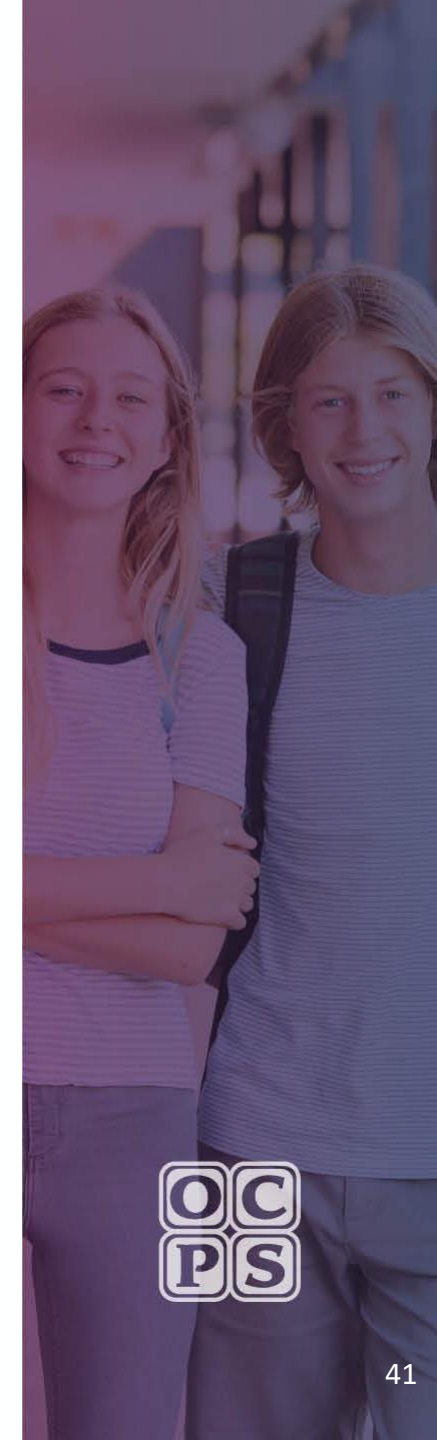
- If the alleged sexual harassment might constitute a crime the matter **shall immediately** be reported to the School Resource Officer or the appropriate law enforcement agency. Any uncertainty regarding whether the alleged sexual harassment might constitute a crime must be resolved in favor of reporting the incident to law enforcement.



Notifying Professional Standards

- When an OCPS employee is the respondent, the school-based Title IX Coordinator or school administrator **shall immediately** notify OCPS Professional Standards. If the respondent is an OCPS employee, discipline may be taken, consistent with any applicable collective bargaining agreement provisions or statutory provisions to resolve a complaint of sexual harassment.





Dismissal

- OCPS must dismiss a formal complaint if the alleged conduct falls outside the scope of Title IX. OCPS may take action under another provision of the Code of Student Conduct even if dismissal is required.
- Written notice of dismissal must be sent within twenty-four (24) hours or no more than two (2) school days.
- OCPS may dismiss a formal complaint if the complainant wishes to withdraw the complaint, or if circumstances prevented the school from gathering evidence.
- If the respondent withdraws during the investigation, the investigation **shall** continue.
- Written notice of dismissal must be sent within twenty-four (24) hours or no more than two (2) school days.

Notice of Dismissal

Notice of Dismissal **must** be sent *within twenty-four (24) hours or no more than two (2) school days.*



Appeal of Dismissal

- Parties may request an appeal from a dismissal within two (2) school days of issuance of the dismissal
- Requests for an appeal shall be sent to the decision-maker

APPEAL



Emergency Removal

- A school may remove a respondent from an education program or activity on an emergency basis if the school:
 - 1) Undertakes an individualized safety and risk analysis;
 - 2) Determines an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies removal; and
 - 3) Provides the respondent with notice and an opportunity to challenge the decision within two (2) school days following removal
- This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Emergency Removal

After individual safety and risk analysis is completed - Parties have two (2) school days to challenge the decision.

NOTE: Immediately convene the School Threat Assessment Team (STAT) to conduct the safety and risk analysis.

Scenario #1

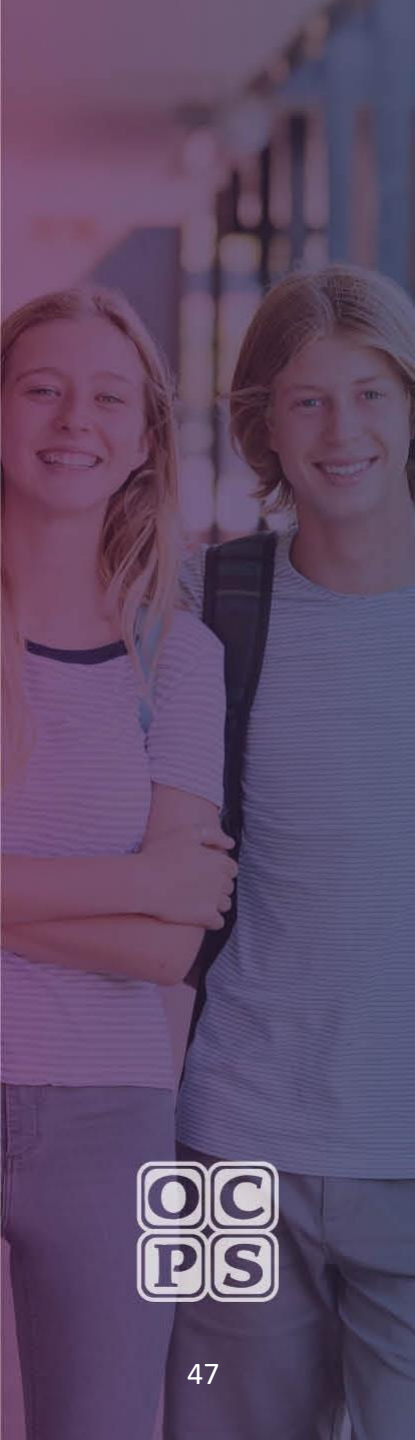
- An OTC Assistant Director overhears Student A tell Student B that Student A was sexually abused by Student A's significant other on campus in an empty classroom last week.
- What steps should the Assistant Director take?
- Immediately notify the SRO
- Notify the Title IX Coordinator
- Even though the employee is not an actual witness to the sexual harassment, because they overheard the allegation, they are obligated to report it



Scenario #2



- An OTC Dean knows that Student A and Student B are in a relationship. One day in between classes, Dean observed Student A and Student B having what appeared to be an argument in the hallway. Student A slapped Student B in the face, however, Student A immediately apologized and it appeared all was forgiven by Student B.
- Do these allegations fall within the Title IX definition of sexual harassment?
- Yes, this is an example of dating violence and the matter should be reported to the Title IX Coordinator for further investigation.



Basic Requirements for the Grievance Process

During the grievance process, a school must:

- Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility has been made against respondent;
- Require an objective evaluation of all relevant evidence;
- Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process;
- Ensure the Title IX Coordinator, investigator, decision-maker, appeals decision-maker, and informal resolution facilitator are free from any conflicts of interest;
- Include reasonably prompt time frames for the conclusion of the grievance process; and
- Include a process that allows for the temporary delay of the grievance process or limited extension of time frames for good cause with written notice;
- List the range of possible disciplinary sanctions and remedies that may be implemented;
- Include the procedures and grounds for appeal;
- Describe the range of supportive measures available to parties; and
- Not allow or require questions or evidence that seek disclosure of protected information.

The Grievance Process

1. Notice
2. Investigation
3. Evidence
4. Appeal



Grievance Process-Written Notice

- In response to a formal complaint, schools must provide written notice to all known parties and follow the specified grievance process before the imposition of **any** disciplinary sanctions against the respondent
- Written notice must be provided within two (2) school days upon receipt of the formal complaint
- Written notice should be sent by email if there is an email address for the parent/legal guardian on file



Written Notice

- **Written notice must include:**
 - The identities of parties involved;
 - The conduct allegedly constituting sexual harassment;
 - The date and location of the alleged incident;
 - A statement that the respondent is presumed not responsible for the alleged conduct;
 - The school's grievance process;
 - A statement that a determination regarding responsibility is made at the conclusion of the grievance process;
 - A statement informing the parties that they may have an advisor of their choice who may be, but is not required to be, an attorney;
 - A statement advising parties that they may inspect and review evidence; and
 - A statement informing the parties of any provision in the recipient's Code of Student Conduct that prohibits knowingly making false statements or knowingly submitting false information



Additional Allegations

- If during the course of an investigation the school decides to investigate allegations about the complainant or respondent that were not included in the original notice, the school must provide written notice of the additional allegations to the known parties within two (2) school days



Response to Formal Complaint

- Parties shall be afforded the opportunity to prepare a response regarding the complaint and provide the response during the initial interview
- Parties shall have no less than two (2) school days from the date of the written notice to prepare a response.
- The school-based Title IX Coordinator shall conduct the initial interviews with both the complainant and respondent within five (5) school days
- Each individual shall be interviewed separately and at no time will the complainant and respondent be interviewed together

Response to Formal Complaint

Parties have **two (2) school days** from the date of the written notice of allegations to respond.

Investigation



Written Notice for Meetings, Interviews, & Hearings

- Written notice for any investigative interviews or meetings must be sent to all parties whose participation is expected or invited at least two **(2)** school days prior to the interview or meeting
 - Applies to witnesses as well
- Written notice for any OTC hearings must be sent at least ten **(10)** school days prior to the hearing

Separate Investigative Interviews

Initial interviews shall be conducted with both the Complainant and Respondent *within five (5) school days*. Each individual shall be interviewed **separately**.

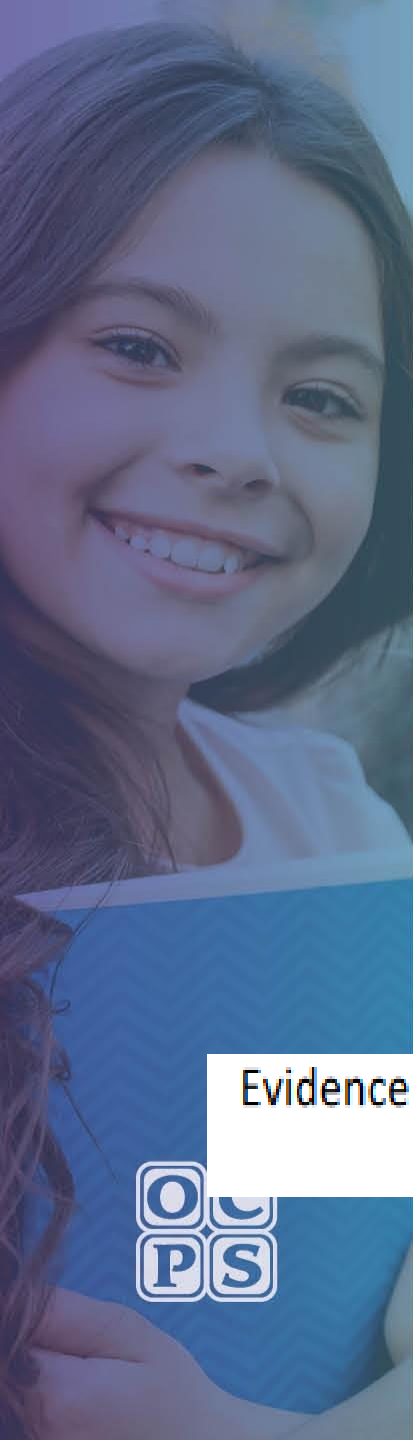
Interview/Meeting Notices

Notice of interviews **must** be sent *at least two (2) school days* BEFORE meetings.

Investigation of the Formal Complaint

- The investigation must be completed and evidence provided to parties within five **(5)** school days of the initial interviews with the complainant and respondent, whichever interview is later
- **This time frame may be extended for good cause, which includes:**
 - Absence of a party, a party's advisor, or a witness
 - Concurrent law enforcement activity
 - The need for language assistance or accommodation of disabilities
- OCPS has the burden of proof and the burden of gathering evidence
- Schools may not obtain medical records unless given voluntary, written consent
- Schools may not restrict either party from discussing the allegations under investigation





Evidence

- Both parties must be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations
 - Including the evidence upon which the school does not intend to rely in reaching a determination regarding responsibility
- Schools may not restrict the ability of either party to gather and present relevant evidence, including all inculpatory and exculpatory evidence
 - Parties shall be given the equal opportunity to present witnesses

Evidence Provided



Evidence **must** be provided to BOTH parties *within five (5) school days* from initial interviews of Complainant and Respondent, whichever is later.

Evidence

Schools must send all evidence subject to inspection to each party and their advisor before completion of the investigative report. Evidence shall be sent in electronic format or a hard copy.

Parties may submit a response to all evidence for the investigator to consider before concluding the investigative report. Parties have ten (10) school days to submit a written response, or the non-response will be deemed as a waiver

The Title IX Coordinator should be preparing the investigative report during this time and shall incorporate any responses into the report.

Requesting OCPS Video for Investigations

- When requesting an OCPS video for the purposes of a Title IX investigation, please include the following information in an email to ocpsvideo@ocps.net:
- Identify yourself as the Title IX Coordinator for your school
- State that the purpose of your request is for a Title IX investigation
- Include date, time and location of video needed
- Request 2 copies (1 for Title IX purposes and 1 for discipline purposes)
 - Video must be requested through OCPS District Police in order to be maintained.



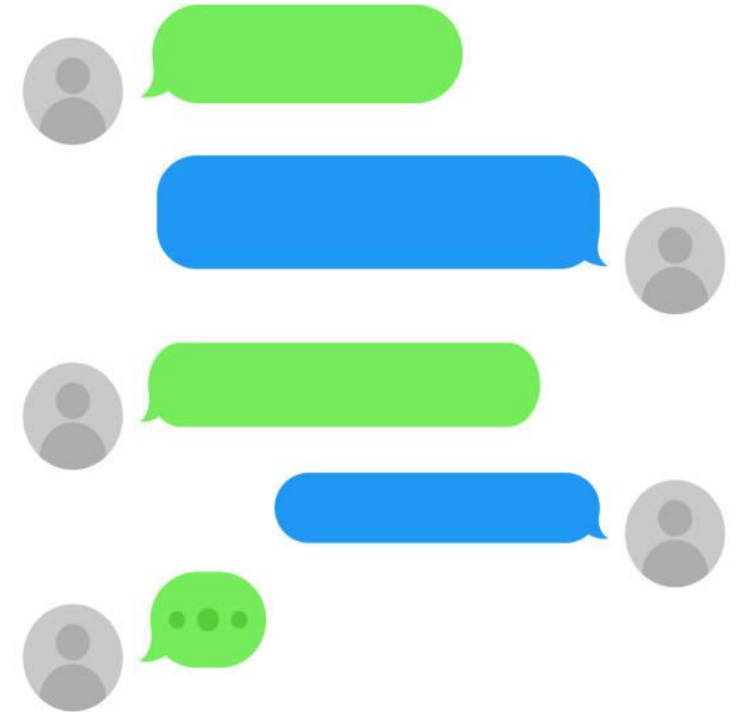
Scenario #3

- An OTC teacher receives an email from a former student. The email describes how Student A, who is in a relationship with Student B, came on campus and destroyed Student B's car by smashing the windows, slashing the tires, and tearing the inside of the car.
- Do these allegations fall within the Title IX definition of sexual harassment?
 - Yes, this is an example of dating violence and it should be reported to the SRO and Title IX Coordinator for further investigation.
 - Does it matter that the incident was reported by a former student?
 - No, any person may report sexual harassment.



Scenario #4

- OTC Professor A visits the classroom of Professor B who is currently not in the classroom. Professor A notices that Professor B's phone was left on the desk and is receiving text messages from a student on the lock screen. The text messages revealed conversations with the student where the student accepted Professor B's offer excusing the student from a class assignment by agreeing to perform a sexual act with Professor B later that evening.
- What steps should OTC Professor A take after reading the text messages?
- Professor A should report this matter to the SRO, Title IX Coordinator, and Professional Standards.



Investigative Report

- The Title IX Coordinator/Investigator will create an investigative report that fairly summarizes all relevant evidence presented
- The report must be sent in an electronic form or hard copy to all parties and their advisors ten days prior to any written determination
- Parties are given ten **(10)** days from receipt of the investigative report to provide a written response
- Any responses received from the parties should be attached to the investigative report

Investigative Report

Investigative Reports must be sent **ten (10) calendar days** prior to the hearing.

Feedback on Investigative Report

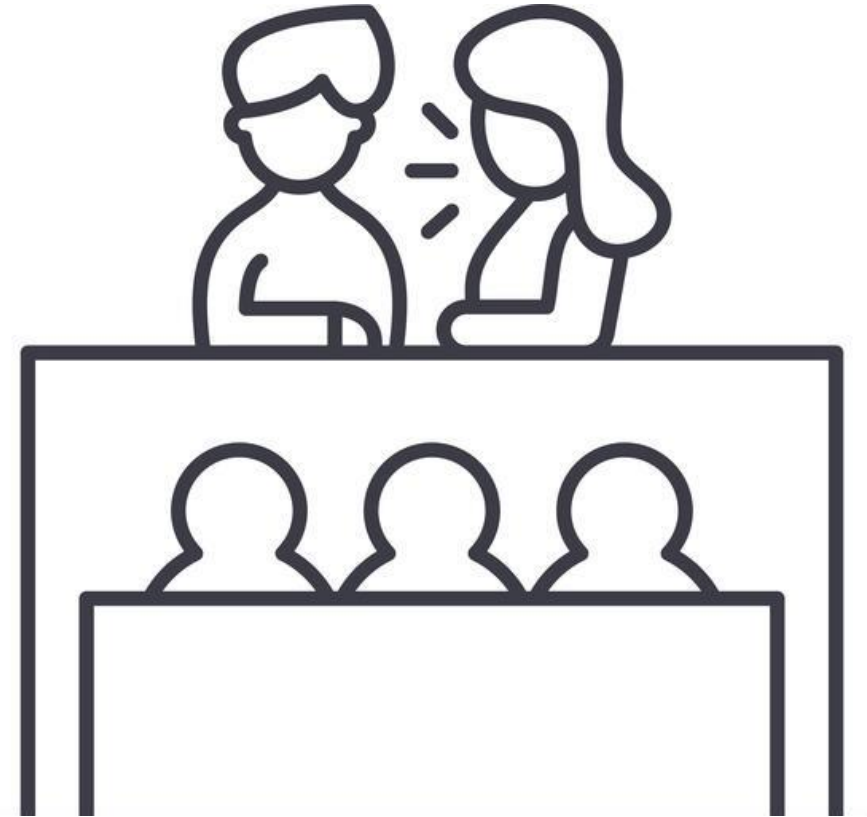
Parties have **ten (10) calendar days** from the date of the investigative report to submit a written response.

Hearings

- Hearings are not required at OCPS K-12 schools, however, hearings are required at OTC
- Live hearings may occur with parties in the same room. At the request of either party, the entire live hearing may occur with parties located in separate rooms with technology allowing the decision-maker and parties to simultaneously see and hear the party or witness answering questions
- Cross-examination must be conducted directly, orally, and in real time by the party's advisor and never by a party personally
 - Only relevant questions and follow-up questions may be asked of a party or witness
- The hearing officer must determine whether a question is relevant before a party or witness answers and must explain any decision to exclude a question as not relevant

Hearings

- A live hearing with cross-examination must be provided by OTC
 - A cross-examination at a live hearing is a process of questioning wherein each party's advisor must be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility



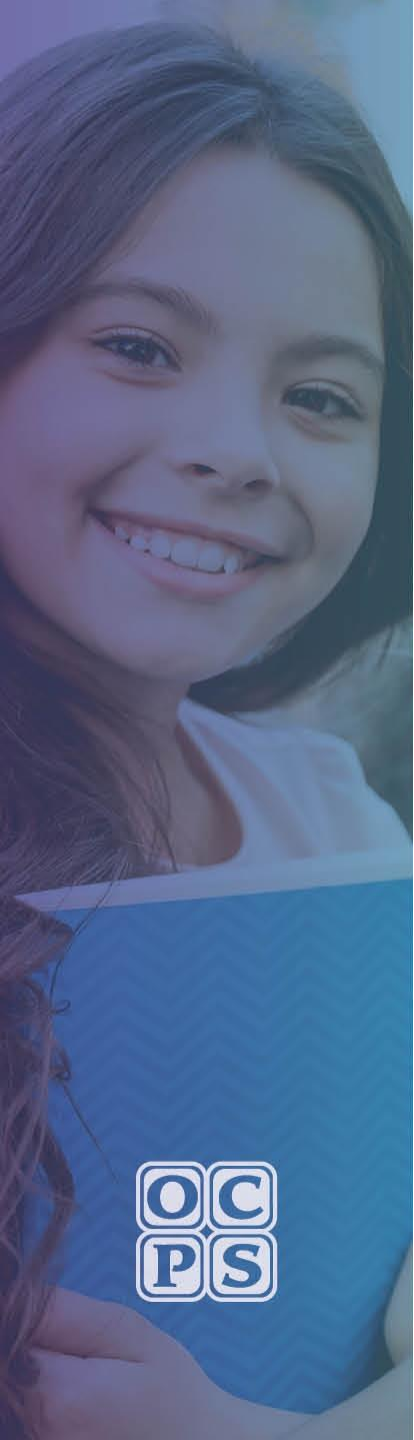
Relevance Test

- Closely connected or appropriate to what is being done or considered
- A **relevant question** is one that deals with the real issue of concern to the investigation.
- Will the question lead to an answer that makes a fact more or less probable?
- Questions and evidence regarding a complainant's sexual predisposition or prior sexual behavior are only relevant if offered to prove someone other than the respondent committed the alleged conduct, or to prove consent (*rape shield*)
 - Fed. R. Evid. 412; Fla. Stat. § 794.022.

Hearings

- OTC must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review
- Parties shall have access to all evidence at any hearing and be given the opportunity to refer to such evidence, including for purposes of cross-examination.
- A hearing officer may rely on other relevant, non-statement evidence (such as photographs, videos, texts, emails, or group-chat messages) if the evidence depicts the alleged sexual harassment or shows the underlying incident, even if the party, witness, or members of the group-chat do not submit to cross examination.





Hearings

Example of relying on non-statement evidence:

- The complainant, Student A, mentions during testimony a screenshot image of a text conversation between her and Professor B. In the image, Professor B tells Student A “I’ll give you a higher grade in my class if you go on a date with me.” Professor B does not submit to cross-examination.
- May the decision maker rely on the complainant’s testimony?
- Yes, the decision maker can rely on the complainant’s testimony. The testimony was about the fact that the respondent made the offer, and not about what the respondent intended or whether the respondent took an additional action based on the statement, such as changing the student’s grade after the date.



Written Determination

- At the conclusion of the grievance process, the hearing officer must issue a written determination to the parties simultaneously within three (3) school days
- The school-based Title IX Coordinator is responsible for implementing remedies stated in the written determination

Written Determination

The written determination along with a Request for Appeal Form **must** be provided simultaneously to the Parties *within* **three (3) school days**.

Written Determination

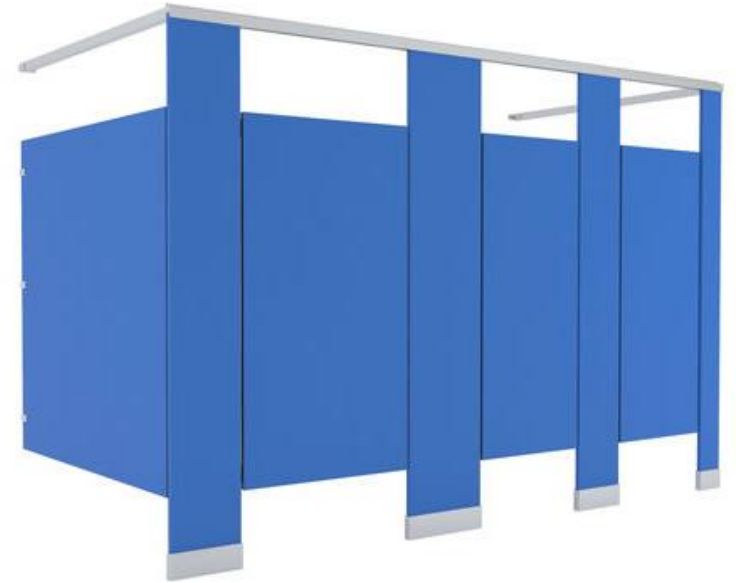
- The written determination must include:
- Identification of the allegations potentially constituting sexual harassment, pursuant to the definition in this policy;
- A description of the procedural steps taken from the receipt of the formal complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings;
- Findings of fact supporting the determination;
- Conclusions regarding application of the Code of Student Conduct to the facts;
- The result and rationale as to each allegation;
- A determination regarding responsibility as to each allegation;
- Any disciplinary sanctions imposed on the respondent by the school;
- Whether remedies will be provided by the school to the complainant; and
- Permissible procedures and grounds for the complainant and respondent to appeal.

Remedies

- Issued at the conclusion of the grievance process
- Designed to restore or preserve equal access to the school's education program or activity.
- Similar to supportive measures
- **Includes disciplinary action**
 - Changing a respondent's class schedule
 - Removing a respondent from a team or extra curricular activity

Scenario #5

- Student A tells the Title IX Coordinator they were forced to perform a sex act on Student B in the bathroom.
- What should the Title IX Coordinator do next?
- Stop the interview
- Immediately notify the SRO
- Offer supportive measures (without any further inquiry into the facts)
- Resume the Title IX investigation once the SRO has completed interviews with all parties



Scenario #6

- Student A tells the Title IX Coordinator they were given a higher grade and were exempted from taking the final exam after agreeing to Professor B's demand to have sexual intercourse.
- What should the Title IX Coordinator do next?
- Stop the interview
- Immediately notify the SRO and OCPS Professional Standards
- Offer supportive measures to Student A (without any further inquiry into the facts)



Scenario #7

- Student A files a formal complaint and alleges they are being sent nude photos by Student B during class. Student A says the photos are being sent daily and it disrupts their participation during class. Student A is uncomfortable because it appears Student B is trying witness Student A's reaction once the photos are received.
- What steps should you take as the Title IX Coordinator?
 - Offer supportive measures
 - Begin the Title IX investigation



A black and white image featuring the word "Appeal" in a bold, typewriter-style font, centered on a white background. Surrounding the word are numerous small, white, torn-edge paper scraps, each with a black question mark printed on it. The scraps are scattered in various orientations, creating a sense of confusion or uncertainty. The overall composition is simple and visually striking.

Appeals

- Each party has the opportunity to appeal from both a dismissal and a written determination
- Requests for an appeal should be sent to the hearing officer
- A request for an appeal must be made within two **(2)** school days of the issuance of the written determination
- If an appeal is not filed, the determination regarding responsibility becomes final on the date after the two **(2)** school days to file an appeal has passed
- If an appeal is filed, the determination regarding responsibility becomes final on the date the school provides the written appeals decision

Appeal	Parties may appeal <i>within</i> two (2) school days of the written determination or dismissal. The written determination is final if an appeal is not filed <i>within</i> the two (2) school days .
Notice of Appeal by Other Party	• Once a request for appeal is received; a notice of appeal must be sent immediately to both parties. • Parties have three (3) school days to submit a response in support of or challenging the outcome of the dismissal or the written determination.
Appeals Written Determination	Must be provided <u>simultaneously</u> to the Parties <i>within</i> five (5) school days .



Appeals

- Hearing Officer will notify the Title IX Coordinator once a Request for Appeal form was received
- Title IX Coordinator will send Notice of Appeal to both parties
- Parties must be given three **(3)** school days to submit a written statement in support of, or challenging, the outcome of the written determination
- If a written statement is not received within three **(3)** school days, the appeals decision-maker will deem the non-response as a waiver and continue with the appeals process
- Title IX Coordinator will submit the evidence, investigative report, written determination and all appeals documents to the appeals decision-maker

Appeals

- Appeals may take place for the following reasons:
 - ✓ Procedural issues affected the outcome;
 - ✓ New evidence that was not reasonably available at the time the written determination or dismissal was made becomes available that could affect the outcome; or
 - ✓ There was a conflict of interest or bias by the school-based Title IX Coordinator, investigator, or decision-maker, against any complainant or respondent that affected the outcome
- The appeals decision-maker may not be the same person as the investigator, school-based Title IX Coordinator, or decision-maker who reached the initial determination of responsibility or dismissal
- The appeals decision-maker must not have a conflict of interest or bias for or against any complainant or any respondent
- The written appeals determination describing the result and rationale for the decision must be provided to both parties within five **(5)** school days

Retaliation

- No school or other person may intimidate, threaten, coerce, or discriminate against any individual for the purposes of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing
- Complaints alleging retaliation may be filed according to the grievance procedures for sexual harassment as outlined in School Board Policy JB



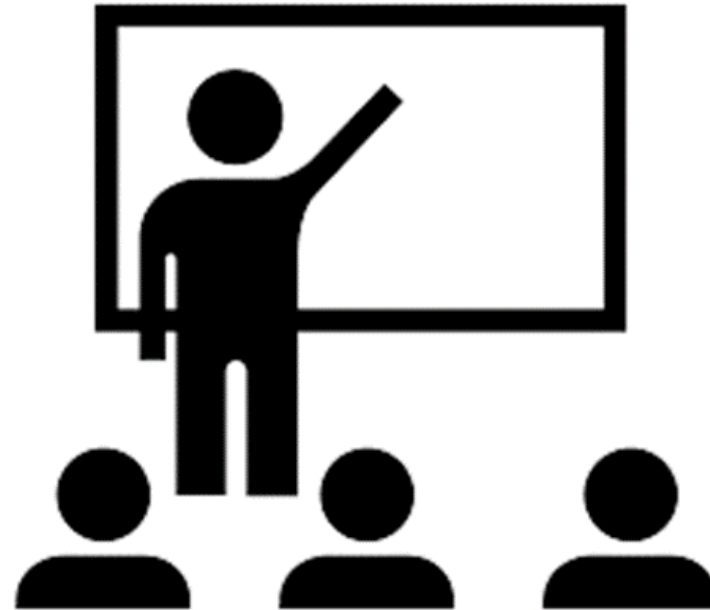
FERPA

Family Educational Rights & Privacy Act

- OCPS should interpret Title IX and FERPA in a manner to avoid any conflicts
- Where a true conflict exists, the obligation to comply with Title IX is not obviated or alleviated by the FERPA statute or federal regulations

Training

- Training is mandatory for all school-based Title IX Coordinators, investigators, decision-makers, hearing officers, and appeals decision-makers
- All training materials must be made available to the public on the OCPS website



Recordkeeping

- Schools must maintain records related to any investigation for seven (7) years, including records of:
- Any actions taken in response to a report of sexual harassment;
- Any actions taken in response to a formal complaint of sexual harassment;
- Any supportive measures provided;
- Each sexual harassment investigation;
- Any determination regarding responsibility;
- Any audio or audiovisual recording or transcript;
- Any disciplinary sanctions imposed on the respondent;
- Any remedies provided to the complainant;
- Any appeal and written appeal decision; and
- All materials used to train school-based Title IX Coordinators, investigators, decision-makers, and appeals decision-makers.



Our Promise. Your Support. Their Success.

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Keshara D. Cowans, Esq.
Staff Attorney
EEO & Equity Officer
District Title IX Coordinator
Office of Legal Services
445 W. Amelia Street Orlando, FL 32801
(407) 317-3411
Keshara.Cowans@ocps.net



Orange County
Public Schools