

STUDENTS' RIGHTS & K-12 SCHOOLS' OBLIGATIONS UNDER TITLE IX TO ENSURE FREEDOM FROM SEXUAL HARASSMENT

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Content warning: Discussion and examples of sexual and racialized sexual harassment and assault in schools are found throughout this fact sheet.

Title IX of the Education Amendments of 1972 (known as Title IX) is a landmark civil rights law that guarantees all students equal opportunities in school regardless of their gender. As part of this commitment, Title IX ensures that schools are inclusive and equitable environments so all students can learn. Title IX specifically prohibits sex discrimination and sexual harassment in all federally funded education programs, including public schools. This fact sheet provides an overview of the Title IX complaint and investigation process in Pennsylvania K-12 public schools to address sexual harassment, which is a form of sex discrimination.¹ Title IX requires schools to provide information about their obligations to: (1) respond to allegations of sex discrimination and sexual harassment, (2) provide supportive services, and (3) provide a process for making a complaint and formal investigation options.² For advice and information about specific circumstances, call ELC-PA's free [Helpline](#).

In addition to Title IX protections, all students in Pennsylvania are protected by state anti-discrimination laws, including the Pennsylvania Human Relations Act (PHRA), which prohibits sex and gender-based discrimination in education.³ For more information about PHRC complaint options for gender discrimination, see ELC-PA's fact sheet [here](#). Title IX provides one option to address sexual harassment. Schools can and should address harassment in non-Title IX policies if the conduct does not meet the Title IX standard, as explained below.

LEGAL OVERVIEW

THERE'S A LOT OF CONFUSION ABOUT CHANGES IN TITLE IX RULES AND EXECUTIVE ORDERS. WHAT STANDARD ARE SCHOOLS FOLLOWING NOW?

Each presidential administration can issue executive orders and/or guidance (often called "Dear Colleague" letters) to describe their priorities and interpretation of the law. Executive orders or guidance do not have the force of law and must be consistent with constitutional and statutory law.⁴ Read more about executive orders [here](#).

SEXUAL HARASSMENT IS FAR TOO COMMON IN OUR SCHOOLS, PARTICULARLY FOR BLACK GIRLS, AND CAUSES SERIOUS HARM

Sex and gender-based harassment and violence are prevalent problems in K-12 schools in Pennsylvania and throughout the country. For example, in a 2023 study, 50% of college students surveyed from across the country about their K-12 experience reported that they, or someone they knew, experienced sexual harassment by a school employee, and more than a third claimed that they feared harassment from other students.⁵ During the 2020-21 school year, school districts nationwide reported 14,900 students being harassed or bullied on the basis of sex; of these students, 63% were girls and 37% were boys.⁶ Students who experience hostile behaviors, including sexual harassment and assault, are more likely to experience depression and anxiety as well as decreased participation and achievement in school.⁷

Research shows that Black girls are more likely to experience sexual harassment and sexual assault and yet more likely to be ignored or punished when they report it.⁸ Underlying racism and racial stereotyping are the root cause of this cycle of victimization. As one researcher explains, school policies and educator responses

“create a nexus of subjugation that determines Black girls’ experiences are imagined, rather than material. Instead of being seen as the victims of intersectional violence, Black girls are viewed as the aggressor and disciplined for protecting themselves, or they are forced to endure their harassment in silence.”⁹

This conclusion aligns with other research that found that teachers and administrators stereotype Black girls as dangerous¹⁰ and “adultify” Black girls, viewing them as less innocent than their white peers.¹¹ This conclusion is also supported by overwhelming evidence of gross disparities in school exclusion practices whereby Black girls are suspended at a rate **six times higher** than their white peers without any difference in behavior.¹² Black girls must be provided safe and affirming schools where they are supported and championed in their academic and personal growth. Read more in ELC-PA’s report [We Need Supportive Spaces: Black Girls Speak Out About Public Schools](#).

Ignoring the realities of sexual harassment in K-12 schools can contribute to its prevalence. Research suggests that when schools provide prevention materials and create policies to address the issue, the percentage of students who report knowing someone who experienced sexual harassment decreases significantly when compared to students in schools which did not have such policies.¹³

Under federal statutes, the U.S. Department of Education has the authority to issue regulations or rules to implement Title IX. Regulations have the force of law but are still subject to court review.

Title IX rules published in 2024 by the Biden administration attempted to clarify protections on the basis of sexual orientation and gender identity but were struck down in federal court and later abandoned by the Trump administration.¹⁴ The Trump administration has attempted to require a binary definition of “sex” through executive orders and enforcement actions by federal agencies,¹⁵ but the administration has not yet adopted or proposed any new regulations.¹⁶ Instead, it reverted to enforcing the 2020 Title IX regulations.¹⁷

Schools have continuing obligations to prevent and respond to sex-based harassment and discrimination under Title IX case law *and* the 2020 Title IX rule and Pennsylvania’s anti-discrimination law,¹⁸ described in detail [here](#). A school’s failure to comply with Title IX could jeopardize its access to federal funding.

TERMS TO KNOW

“**Regulations**” or “**rules**” (used interchangeably here) refer to the Title IX administrative regulations promulgated by the U.S. Department of Education. Such regulations are to be adopted after public notice and comment periods and are intended to implement or interpret Title IX.

Throughout the Title IX process, “**complainant**” refers to the student that was subject to unwanted sexual conduct and submitted a complaint, and the “**respondent**” is the person or people described as harming the complainant with unwanted sexual conduct.

Check out this [glossary of Title IX terms](#) for more explanations of common language used in the Title IX process.

DEFINING SEX DISCRIMINATION AND SEXUAL HARASSMENT UNDER TITLE IX

Important: Title IX offers one specific legal standard requiring action and imposing potential liability on a school or harassing student – but **any unwanted offensive conduct should be reported to school staff and addressed**, even if it doesn’t meet the Title IX legal definition. Contact the [ELC-PA Helpline](#) for specific advice.

Sex discrimination under Title IX means being prevented from participating in or benefiting from, or being subject to unfair practices in any academic, extracurricular, or other education program or activity because of the student’s sex.¹⁹ This fact sheet focuses on sexual harassment under Title IX, one kind of sex discrimination.

WHAT IS CONSIDERED SEXUAL HARASSMENT UNDER TITLE IX?

The **2020 Rule** defines sexual harassment as “conduct on the basis of sex” that includes at least one of the following:

- 1) Quid pro quo sexual harassment.
- 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 [their] education program or activity.”
- 3) Sexual assault, dating violence, domestic violence or stalking.²⁰

Quid pro quo sexual harassment uses a Latin phrase in its name that means “this for that.” The category refers to an employee of the school telling a student that they can get an advantage or educational benefit by participating in or allowing unwanted sexual conduct.²¹

A single act of **sexual assault, dating violence, domestic violence or stalking** – as defined in the rules – may qualify as sexual harassment. A student does not need to demonstrate that it is severe, pervasive, or offensive or that it denies access to education.²² Schools have the flexibility to define “consent” when considering what is “sexual assault.”²³ A school’s definition of “consent” should not depend on the use of physical force or whether someone “fought back” or had prior sexual encounters.

Unwelcomed conduct that is severe, pervasive and objectively offensive: The legal standard requires harassing conduct that is severe (very serious, harsh or intense), pervasive (ongoing, frequent, happens often, is widely felt throughout the time period) and objectively offensive (a reasonable student would find the behavior intimidating, hostile, abusive, or harmful).

Whether harassment rises to the level of “severe, pervasive and objectively offensive” is determined by considering the totality of the circumstances.²⁴ Factors that bear on this assessment include, but are not limited to:

- The frequency of the offensive conduct.
- The nature of the conduct, including whether the harassment was physical, verbal, or both.
- The relationship between the parties.
- The ages of the victim and the harasser(s).
- The number of individuals involved.²⁵
- Sustained campaigns of verbal and physical harassment are likely to meet this standard,²⁶ whereas “simple acts of teasing or name-calling” do not meet the standard,²⁷ and “sporadic and isolated incidents of sexual harassment” also fail to meet the Title IX standard.²⁸

➤ What does it mean to deny a student equal access to education?

In order for a complainant to allege a violation of Title IX for unwelcomed sex-based conduct, the harassment must effectively deny the complainant equal access to their education program or activity. Examples of significant impact that effectively denies a student equal access to their education include, but are not limited to: being forced to withdraw from school,²⁹ missing out on classroom instruction or being forced to work at home,³⁰ or a decline in the student’s academic performance.³¹ A student may still meet the Title IX standard with grades that remained steady during the period of harassment if they, for example, are unable to attend school in-person or can show other impacts.³²

➤ Does sexual harassment need to be physical to file a complaint under Title IX?

No. Harassment does not have to include a physical element to be actionable. Courts have recognized that verbal harassment may be sufficiently “severe and pervasive” if it “reflects a pattern of harassment” that goes beyond “simple acts” of teasing and name calling.³³ Verbal

harassment that includes comments about touching another’s body or physical intimidation or threats also contribute to meet the “severe” and “objectively offensive” factors.

Whether verbal conduct is determined to be “objectively offensive” requires looking to the facts of each situation and whether the specific words or comments used to target harassment at the complainant student would be offensive to a “reasonable person” standing in the shoes of the complainant student.³⁴ When making a complaint, the caregiver or student should explain why the comments were not just personally offensive, but how they would be offensive to any student of their same gender, age and maturity level, cultural or racial background, and disability experience, and in the same context of a public or private space, with the same relative power dynamics, and the same type of conduct (including whether verbal alone or included physical contact, threats, graphic images, sexual slurs or explicit humiliation).

➤ **Is retaliation also prohibited under Title IX?**

Schools and individuals are prohibited from retaliating against any person for participating or refusing to participate in a grievance process under the 2020 Rule.³⁵ Retaliation occurs when the harasser, their friends, or school staff treat the student complainant worse or punish them because they reported sex-based harassment or helped someone else report it. The school cannot restrict a respondent (alleged harasser) from talking about the allegations in a formal complaint,³⁶ but they should not be talking about evidence from the grievance process.³⁷ **The complainant should report any behavior that feels like retaliation to the Title IX Coordinator promptly and ask for it to be documented, investigated and addressed.**

➤ **Must the alleged harasser be within the school’s substantial control?**

Yes. Conduct between any two or more people may qualify as sexual harassment, including two or more students, or a student and a school staff member. The individuals may have the same or different sex or gender and may identify as straight or LGBTQ+. If the incident happened outside the school campus, the school must respond if the school had “substantial control” over the respondent (alleged perpetrator) and the context for the incident.³⁸

Schools must address a complaint if the complainant was participating in or trying to participate in school at the time the complaint was filed.³⁹ The Rules also recognize that this could include a period when the student is taking a leave of absence, or when the alleged harasser dropped out but plans to re-enroll if the school responds favorably regarding the incident.⁴⁰ If the alleged harasser (respondent) graduates or otherwise leaves school, the school has the option of dismissing a formal complaint.⁴¹ ELC-PA recommends advocating that the school continue its efforts to address any hostile environment with improvements to policy and staff practice.

➤ **Does the harassing conduct need to take place at school for the school to respond?**

No. The 2020 Title IX rule requires schools to respond to qualifying conduct that happens in the United States and (1) on school grounds *or* (2) during a school’s “education program or activity” where the school has “substantial control” over the alleged perpetrator and the context where the

sexual harassment occurred.⁴² Schools have responsibility for harassment in the following contexts in addition to on-campus school time:

- School-related off-campus settings like field trips and athletic events.
- Online classes and programs sponsored by the school.
- An incident that used school-sponsored electronic devices, computers and internet networks, or takes place on digital platforms sponsored by or used in operations of the school, including artificial intelligence (AI) technologies.⁴³

Digital sexual harassment can include:

- Unwelcome conduct on social media platforms, such as sexually demeaning or discriminatory slurs or threats of sexual violence.
- Nonconsensual texting, posting, or otherwise sharing naked or intimate images of a person – whether real, altered, or created through AI technologies.
- Stalking using technology, including sending multiple unwanted text messages, creating fake social media accounts, or using apps to work around a blocked number.⁴⁴

****Remember:** This Title IX standard is one legal requirement for a school to intervene. But even if unwanted sex-based conduct does not meet this particular Title IX standard, the school is required to offer supports and address any other violations that may exist. Accordingly, ELC-PA recommends reporting all unwanted conduct to start that review and response. Call the [ELC-PA Helpline](#) for specific advice.*

DOES TITLE IX PROHIBIT GENDER-IDENTITY AND SEXUAL-ORIENTATION HARASSMENT?

Yes. Although the Trump administration and its Department of Education do not recognize gender-identity discrimination and are trying to advance a narrow “biological sex” interpretation of Title IX’s protections, the 2020 Rules emphasize that “[a]ny individual – irrespective of sexual orientation or gender identity – may be victimized by the type of conduct defined as sexual harassment to which a recipient must respond under these final regulations.”⁴⁵ Federal courts across the country have recognized Title IX violations for harassment based on a student’s sexual orientation or gender identity that is rooted in sex-based stereotypes of what a boy or girl must act or look like.⁴⁶

WHAT IF THE UNWELCOME SEX-BASED CONDUCT DOES NOT MEET THE TITLE IX DEFINITION OF SEXUAL HARASSMENT?

This is often a source of confusion and frustration for families. The law requires schools to **dismiss** Title IX complaints that do not allege harassment that meets the 2020 definition of (1) quid pro quo; (2) unwelcome sex-based conduct that is so severe, pervasive, and objectively offensive that it “effectively denies” a person equal access to a school program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking.⁴⁷

However, schools must also respond to unwelcome sex-based conduct that may not rise to the narrow legal standard of Title IX case law. A determination that conduct does not meet the Title IX standard does not mean that conduct is acceptable, and it may violate other school rules or laws. Many school districts acknowledge this with policies that distinguish between “Title IX complaints” and “Non-Title IX /Other complaints.” If a caregiver receives notice that the school has “dismissed” the Title IX complaint or determined that the complaint does not meet the Title IX standard, ELC-PA recommends that the caregiver or student request (1) an appeal or review of that decision, if the school policy allows, and (2) a “non-Title IX” bullying or harassment investigation, as well as any interventions and safety plan or other supports to address the bullying or harassment. In requesting a non-Title IX investigation, it is important to inform the school if you believe the conduct was based on race, national origin, disability, or other protected status.

DOES A STUDENT HAVE TO COMPLETE A SCHOOL TITLE IX COMPLAINT PROCESS TO FILE A COMPLAINT IN COURT?

No. It’s important to note that completing a school Title IX complaint process is not required before a student sues a school in federal court under Title IX for a school’s failure to respond (being “deliberately indifferent”) to harassment where a school had actual knowledge of the harassment and failed to address it. However, a court complaint must be filed within two years of the incident unless a tolling exception applies.⁴⁸

THE TITLE IX SCHOOL COMPLAINT PROCESS

HOW CAN STUDENTS AND FAMILIES REPORT SEXUAL HARASSMENT?

Students and families may report sexual harassment to their school’s Title IX Coordinator in person, by mail, by telephone, by email, “or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report,” such as by reporting the discrimination to another school counselor, teacher, or the principal.⁴⁹ Schools must respond if any PreK-12 school employee is notified of conduct that “could” constitute sexual harassment under Title IX.⁵⁰

Any report of conduct that could be sexual harassment requires the Title IX Coordinator to ask for a conversation with the complainant and to explain various options in the Title IX process, including:

- A formal written complaint must be submitted in order for a school to initiate the Title IX grievance process and investigation.
- How to file a formal complaint.
- A description of supportive measures that are available regardless of whether a formal complaint is filed (explained below).⁵¹

The formal written complaint must include a request to investigate alleged sexual harassment and a signature or clear indication of the person submitting the formal complaint.⁵² There is often a template form provided in the school district’s board policy for Title IX.

ELC-PA always recommends making reports of any bullying or harassment by email so there is an electronic record available that shows what you reported, when, and to whom. If you prefer to talk with someone in-person to make a report, we strongly recommend you send an email follow-up describing the conversation.

THE TITLE IX COORDINATOR: AN IMPORTANT ROLE

Every school district is required to identify at least one employee to be Title IX Coordinator and carry out responsibilities relating to sexual harassment complaints, investigations, and supportive services.⁵³ The Title IX Coordinator's name and contact information must be prominently posted on your school's website.

If you're having trouble identifying the coordinator for your school, check this [civil rights coordinators website](#). Remember that at many schools, the Title IX Coordinator may have other titles and responsibilities as well.

SCHOOLS ARE REQUIRED TO RESPOND WHEN THEY HAVE 'ACTUAL KNOWLEDGE' OF SEXUAL HARASSMENT

When any PreK-12 school employee has "actual knowledge" of sexual harassment, schools must respond in a manner that is not "deliberately indifferent."⁵⁴ An employee has "actual knowledge" if they receive notice or allegations of conduct that "could" be sexual harassment.⁵⁵ When a school has notice of sexual harassment or suspects that sexual harassment has occurred, they should take *immediate and effective steps* to investigate the incident, end the harassment, prevent it from repeating, and provide remedies to stop any hostile environment created. A school may be liable if their response is "deliberately indifferent," meaning it is "clearly unreasonable in light of the known circumstances."⁵⁶

WHAT ARE 'SUPPORTIVE MEASURES'?

Schools must offer free supportive measures to students who report sexual harassment, regardless of whether a formal complaint has been filed.⁵⁷ Supportive measures are designed to restore or preserve equal access to school, including by protecting students' safety and deterring sexual harassment.⁵⁸ Schools must consider a complainant's wishes with respect to supportive measures.⁵⁹ Such measures may include, but are not limited to:

- Counseling.
- Extensions of deadlines, re-taking a class or exam, or other course-related adjustments.
- Modifications of class schedules.
- Escort or accompaniment services on campus.
- Mutual restrictions on contact between the parties.
- Leaves of absence.
- Increased security and monitoring of certain areas of school.⁶⁰

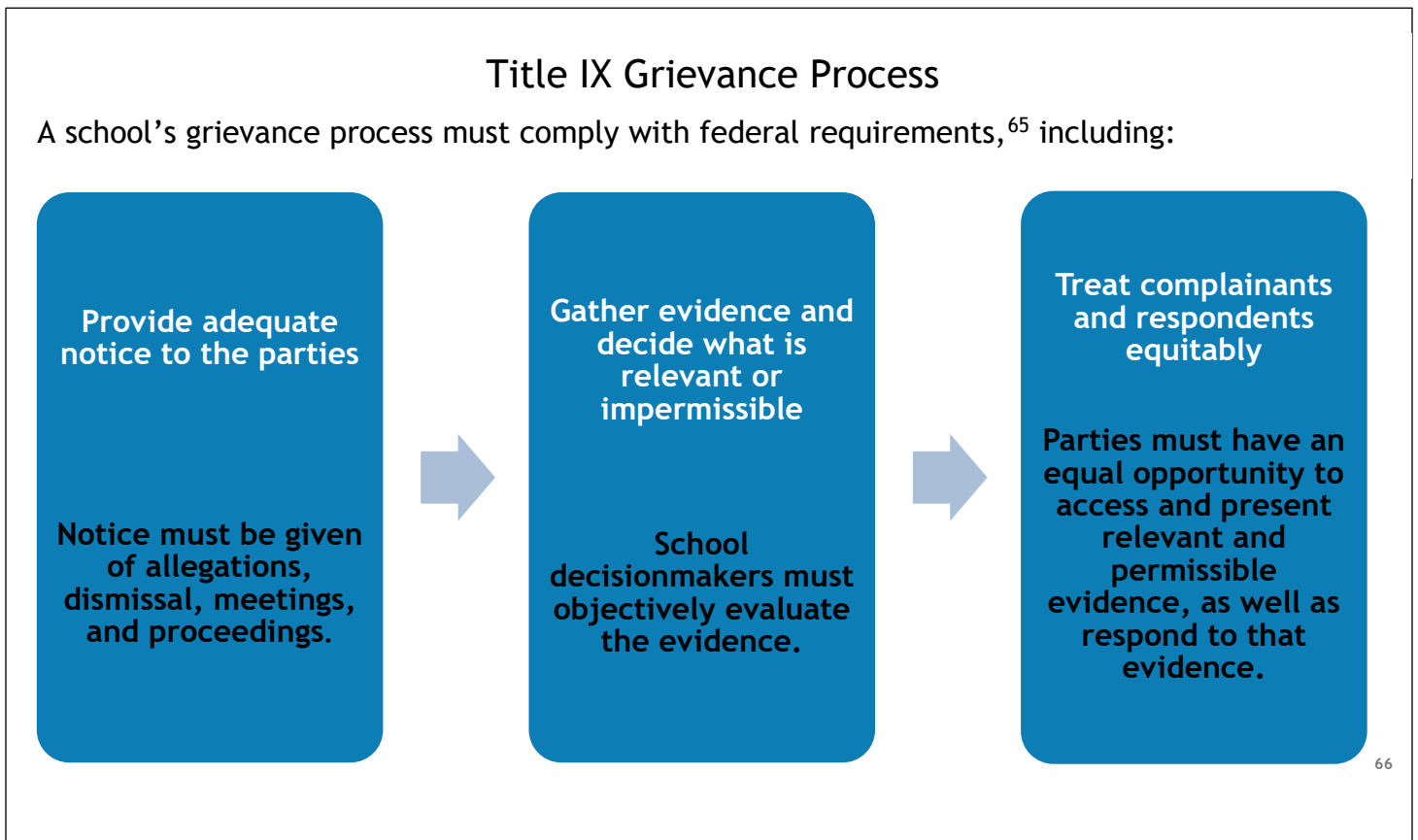
If the complainant student has an IEP or 504 Plan, ELC-PA strongly recommends that Title IX supportive services be discussed in the relevant team and incorporated into a revised IEP or 504 Plan.

Supportive measures for a complainant cannot be “disciplinary” or “punitive,” nor may they “unreasonably burden” a respondent before a determination of guilt (after an investigation), but there may be some reasonable burden on a respondent.⁶¹ Examples may include: school staff having a conversation with respondent about the school policies, their behavior and its impact on the complainant; changing a respondent’s seat or class assignment; prohibiting respondent from directly communicating with a complainant; or adding supervision to areas of expected interaction.

WHAT IS THE SCHOOL’S PROCEDURE FOR RESPONDING TO FORMAL COMPLAINTS?

Schools must initiate a formal Title IX grievance process after a formal written complaint is made.⁶²

Proceed without bias or presumption. During the grievance process, schools are required by the rules to presume that respondents are not responsible for the conduct alleged until the grievance process has concluded and responsibility has been determined.⁶³ Schools are also prohibited from assuming that a complainant is lying or making credibility determinations based on any person’s status as a complainant, respondent or witness.⁶⁴



The grievance process may conclude after a formal investigation has been conducted or after an informal resolution has been agreed upon.⁶⁷

Students and caregivers who are considering taking action under Title IX or who are involved in a Title IX action are encouraged to review their school district's Title IX policies, because specific procedures may vary. The following, however, provides an example of what students and parents can expect during the process.

Step 1 – Formal Complaint

The grievance process is initiated when a formal written complaint alleging sexual harassment is filed with the school.⁶⁸ Formal complaints may be filed by a student or their parent or guardian.⁶⁹ Students and caregivers do not need to include every detail of incidents in the complaint, but they should pay careful attention to the detail provided because the information will be shared with alleged harassing students (respondents) and witnesses as the school attempts to verify what happened.

A school's Title IX Coordinator may also sign and file a formal complaint to initiate the grievance process, even against a complainant's wishes, should they deem it necessary to address the conduct alleged.⁷⁰

After a formal complaint has been filed, a school must provide written notice to all known parties of their grievance process and the allegations potentially constituting sexual harassment.⁷¹

Step 2 – Informal Resolution (Optional)

After a formal complaint has been filed, a school may facilitate an informal resolution process, such as mediation, any time prior to reaching a determination regarding responsibility.⁷² (The school may also determine that an informal resolution is not an appropriate option for certain allegations.⁷³) A school may **not** require parties to engage in an informal resolution process, however, and informal resolution may not be offered to resolve allegations that a school employee sexually harassed a student.⁷⁴ At any time before agreeing to a resolution, a party may withdraw from the informal resolution process and resume the grievance process with regard to the formal complaint.⁷⁵ Once a resolution has been reached, parties may be precluded from resuming a formal complaint from the same allegations.⁷⁶

Step 3 – Investigation

When investigating a formal complaint, **a school bears the burden of proof and of gathering sufficient evidence to reach a responsibility determination.**⁷⁷ Schools must do the following to ensure a fair investigation:

- Provide an equal opportunity for the parties to present witnesses and other evidence.⁷⁸
- “Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.”⁷⁹
- Allow each party to be accompanied at any meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney.⁸⁰

- Provide each party “written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.”⁸¹
- Provide parties an equal opportunity to inspect and review any evidence obtained as part of the investigation “so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.”⁸² The school must send copies of the evidence to each party and their advisor at least 10 days before the completion of the investigative report so that the parties may submit written responses to the evidence.⁸³
- Create an investigative report that fairly summarizes relevant evidence, and send it to each party at least 10 days prior to a hearing (if there is a hearing) or other time of determination regarding responsibility.⁸⁴

Step 4 – Written Determination and District Action

Once the investigation has concluded, the decision-maker(s) issues a written determination regarding responsibility.⁸⁵

WHAT IS THE BURDEN OF PROOF TO ESTABLISH A VIOLATION, AND WHO MAKES THE DECISION?

Schools must use either a preponderance of the evidence standard (evidence is more likely true than not true) or clear and convincing standard (evidence is highly and substantially more likely to be true) to determine whether sex discrimination occurred, as long as the school uses the same standard for students and employees.⁸⁶ Schools must designate a separate decision-maker, who cannot be the Title IX Coordinator or an investigator, to determine whether a violation has been established.⁸⁷

A complainant may identify any staff that have made prior credibility determinations or overseen an incident relating to the complainant before that could bias their assessment of the allegations and ask that they be excluded as a potential decision-maker based on the potential for bias.

WHAT IF I DISAGREE WITH THE FINAL DETERMINATION?

Parties must be allowed to appeal a determination regarding responsibility or the dismissal of a formal complaint on the following bases:⁸⁸

- 1) There was a procedural irregularity that affected the outcome of the matter;
- 2) There is new evidence that could affect the outcome of the matter, which was not reasonably available at the time the determination of responsibility or dismissal was made; or
- 3) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias that affected the outcome of the matter.

A school may also offer an appeal equally to both parties on additional bases.⁸⁹

HOW LONG WILL THE PROCESS TAKE?

Unfortunately, the length and timing of the process can vary a lot because there is no specific legal deadline for schools, only an obligation for the school to complete a Title IX investigation in a “reasonably prompt timeframe.”⁹⁰ The 2020 Regulations require schools to ensure that any delay is “temporary” and “limited,” even if there is “good cause” for delay.⁹¹ A school’s investigation is separate from any related police activity, and a school must continue its investigation independently if police activity extends beyond a “temporary delay.”⁹² Language assistance and disability accommodations are required to be timely provided throughout the process.

Depending on the context of the complaints and the number of alleged harassers (respondents), the process typically takes months and could last a year or more. Your school might provide an estimated timeline in its Title IX board policy or administrative procedures on the school website. The school could communicate if they need additional time to complete certain steps, and the complainant student may request an extension of any timelines as well.

The Education Law Center-PA (ELC-PA) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC-PA advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA’s publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC-PA’s Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

¹ The Title IX rules and process differ in the college/university context. This fact sheet covers only the K-12 school context. For information about Title IX in post-secondary institutions, consult [Women’s Law Project \(PA\)](#) and [National Women’s Law Center](#).

² This fact sheet focuses on the in-school complaint and support process and does not address all considerations for litigation under Title IX.

³ Pa. Human Relations Act, 43 PA. STAT. ANN. § 955. *See also Wible v. School District of Philadelphia*, No. 15-043169 (Phila. Cty. Ct. of Comm. Pls. 2018) (awarding a settlement against a school district under the PHRA after the school failed to prevent severe gender-based harassment and violence).

⁴ “In the framework of our Constitution, the President’s power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 587 (1952). “He cannot make new law or devise new authority for himself — by executive order or otherwise. He may only wield those powers granted to him by Congress or by the Constitution.” *League of United Latin Am. Citizens v. Exec. Off. of the President*, No. CV 25-0946 (CKK), 2025 WL 1187730, at *15 (D.D.C. Apr. 24, 2025) (barring unilateral exercise of authority that violates the separation of powers principle).

⁵ <https://www.aauw.org/resources/policy/position-school-harassment/https://eric.ed.gov/?id=ED454132> Grant, Haverland, and Kalbfleisch, “*Title IX Policy Implementation and Sexual Harassment Prevalence in K-12 Schools*” (2023).

⁶ *Sexual Violence and Sex-based Harassment or Bullying in U.S. Public Schools During the 2020-21 School Year*, U.S. DEP’T OF EDUC. (Nov. 2023), https://www2.ed.gov/about/offices/list/ocr/docs/crdc-sexual-violence-snapshot.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

⁷ *Students’ Experiences with Bullying, Hate Speech, Hate Crimes, and Victimization in Schools*, U.S. GAO (Nov. 2021) (also reporting over 1,000 cases of rape and 7,000 cases of sexual assault other than rape in K-12 public schools).

- ⁸ See, e.g., Jodi Lipson, *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School* (2001), <https://eric.ed.gov/?id=ED454132> (67% of Black girls reported having been “touched, grabbed, or pinched in a sexual way” by someone in school; 50% of Black girls reported someone in school pulled at their clothing in a sexual way; and 28% of Black girls reported being forced to kiss someone.); Kimberlé S. Crenshaw with Priscilla Ocen and Jyoti Nanda, *Black girls matter: Pushed out, overpoliced, and underprotected* (2015), https://www.atlanticphilanthropies.org/wp-content/uploads/2015/09/BlackGirlsMatter_Report.pdf.
- ⁹ Jennifer M. Wilmot, Valentina Migliarini and Ancy Annamma Subini, *Policy as Punishment and Distraction: The Double Helix of Racialized Sexual Harassment of Black Girls*, <https://journals.sagepub.com/doi/10.1177/0895904820984467>. See also Nat’l Women’s L. Ctr., *Dress coded. Black girls, bodies and bias in D.C.* (2018); Sonja C. Tonnesen, *Commentary: “Hit it and quit it”: Responses to Black girls’ victimization in school* 28 BERKELEY J. GENDER, L. & JUST. 1 (2013); *Dress Codes Hurt Learning for Black Girls in D.C., New NWLC Report Finds*, NAT’L WOMEN’S L. CTR. (2018), <https://nwlc.org/press-release/dress-codes-hurt-learning-for-black-girls-in-d-c-new-nwlc-report-finds/>; Connie Wun, *Against captivity: Black girls and school discipline policies in the afterlife of slavery*, 30 EDUC. POL’Y 171 (2015).
- ¹⁰ Venus E. Evans-Winters with Girls for Gender Equity, *Flipping the script: The dangerous bodies of girls of color*, 17 CULTURAL STUD. ↔ CRITICAL METHODOLOGIES 415 (2017).
- ¹¹ Rebecca Epstein, Jamilia J. Blake, and Thalia González, *Girlhood interrupted: The erasure of Black girls’ childhood*. GEORGETOWN L. SCH. CTR. ON POVERTY AND INEQUALITY (2017), <https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf>.
- ¹² See, e.g., Off. for C.R., U.S. Dep’t of Educ., *Civil rights data collection: School climate and safety* (2014), <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>; Off. for C.R., U.S. Dep’t of Educ., *Civil rights data collection: School violence factors in the educational environment* (2020), <https://www2.ed.gov/about/offices/list/ocr/docs/sexual-violence.pdf>.
- ¹³ Grant, Haverland, and Kalbfleisch, “Title IX Policy Implementation and Sexual Harassment Prevalence in K-12 Schools” (2023).
- ¹⁴ See *Tennessee v. Cardona*, 762 F.Supp.3d 615 (E.D. Ky. Jan 10, 2025).
- ¹⁵ See U.S. Dep’t of Educ., Office for Civil Rts., Dear Colleague Letter: Title IX Enforcement Directive (Feb. 4, 2025), <https://www.ed.gov/media/document/title-ix-enforcement-directive-dcl-109477.pdf>.
- ¹⁶ But see 2026 Regulatory Plan, Dep’t of Educ., Implementation of Title IX based on Definition of “Sex” Identified in EO 14168, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=1870-AA23>.
- ¹⁷ See U.S. Dep’t of Educ., Office for Civil Rts., Dear Colleague Letter: Title IX Enforcement Directive (Feb. 4, 2025), <https://www.ed.gov/media/document/title-ix-enforcement-directive-dcl-109477.pdf>.
- ¹⁸ See 43 Pa. Stat. Ann. § 955 (West).
- ¹⁹ 34 C.F.R. § 106.31(discrimination in education programs or activities).
- ²⁰ Id. § 106.30 (defining sexual harassment). Title IX regulations incorporate the following definitions: “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v) (“an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation,” which includes forcible and nonforcible sex offenses such as rape, fondling, and statutory rape that contain elements of “without the consent of the victim.”), “dating violence” as defined in 34 U.S.C. 12291(a)(10) (violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) relationship determined by factors of (i) length of the relationship, (ii) type of relationship; (iii) frequency of interaction between the persons in relationship); “domestic violence” as defined in 34 U.S.C. 12291(a)(12)(includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the laws [of Pennsylvania] or a pattern of other coercive behavior to exert power and control over a victim), or “stalking” as defined in 34 U.S.C. 12291(a)(36) (“engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.”).
- ²¹ 34 C.F.R. § 106.30 (defining quid pro quo sexual harassment).
- ²² 85 Fed Reg. 30026, at 30154.
- ²³ 34 C.F.R. § 106.30(a) (definition of “consent” permits schools to adopt their own in reference to sexual assault); 85 Fed Reg. at 30125.
- ²⁴ *Davis Next Friend LaShonda D. v. Monroe Cnty. Bd. Educ.*, 526 U.S. 629, 651 (1999); *I.F. v. Lewisville Indep. Sch. Dist.*, 915 F.3d 360, 373 (5th Cir. 2019) (genuine dispute as to material fact raised where allegations of harassment were so severe, pervasive, and objectively offensive as to effectively bar student’s access to an educational opportunity or benefit).
- ²⁵ *Chancellor v. Pottsgrove Sch. Dist.*, 529 F.Supp.2d 571, 575 (E.D. Pa. 2008).
- ²⁶ See e.g., *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 256-58, 259 (6th Cir. 2000) (holding that the severity and pervasiveness requirement was met when a female student was on one occasion stabbed in the hand, on another held down while her shirt was yanked off, her hair pulled, and boys present attempted to disrobe, and repeatedly

subjected to vulgar insults, propositions, bullying, and inappropriate touching by male classmates); *Doe v. Sch. Dist. No. 1, Denver, CO*, 970 F.3d 1300, (10th Cir. 2020) (holding that the severity and pervasiveness requirement was met when a female student was subjected to harassment by her peers for over a year including: being called a “dirty slut,” blackmailed with nudes, told that “[c]onsent is a myth” and that she would be the first to lose her virginity, threatened with physical violence, had rumors started about her by a group of boys who would make rape jokes to her, pull on her backpack, tell her to kill herself, and draw pictures of her killing herself); *Cummings on behalf of J.F. v. Pueblo Cnty. Sch. Dist.* 60, 799 F.Supp.3d 1169, 1176 (D. Colo. 2025) (holding that the severity and pervasiveness requirement was met when an elementary schooler was called a “dyke,” “lesbo,” and subjected to other sexist and homophobic comments, along with repeated threats of violence, by her classmates).

²⁷ See *Davis*, 526 U.S. at 650-52; 85 Fed. Reg. at 30155.

²⁸ *Lansberry v. Altoona Area Sch. Dist.*, 318 F.Supp.3d 739, 752 (W.D. Pa. 2018).

²⁹ See *Vance*, 231 F.3d at 257, 260.

³⁰ See *Sch. Dist. No. 1*, 970 F.3d at 1312-13.

³¹ See *Davis*, 526 U.S. at 634, 654.

³² See *Sch. Dist. No. 1*, 970 F.3d at 1312-13 (holding that a student who maintained a 4.0 GPA was still denied equal access to her education because she could not attend classes at the school and was forced to complete her work at home due to the harassment).

³³ *Theno v. Tonganoxie Unified Sch. Dist. No. 464*, 377 F.Supp.2d 952, 968 (D. Kan. 2005) (name calling, slurs, crude gestures was “unrelenting for years,” established a pattern arguably severe and pervasive).

³⁴ 85 Fed. Reg. at 30156 (describing final regs that refine the *Davis* prong to require reasonable person standard).

³⁵ 34 C.F.R. § 106.71(a).

³⁶ *Id.* §§ 106.45(b)(5)(iii) (discussing allegations).

³⁷ 85 Fed. Reg. at 30297-98 (advisors discussing evidence), 30422-23 (parties discussing evidence).

³⁸ 34 C.F.R. § 106.44(a). See also *Oldham v. Penn. State Univ.*, 138 F.4th 731, 746 (3d Cir. 2025) (explaining to sue in federal court under Title IX claims, the court will assess whether the complainant and respondent(s) were within Title IX’s “zone of interests” by looking to whether the school had substantial control over the alleged offenders and contexts for the discrimination.).

³⁹ 34 C.F.R. § 106.30(a).

⁴⁰ 85 Fed. Reg. at 30138.

⁴¹ 34 C.F.R. § 106.45(b)(3)(ii); 85 Fed. Reg. at 30290.

⁴² 34 C.F.R. § 106.44(a); see also *Davis*, 526 U.S. at 645-46 (school may have damages liability under Title IX for circumstances where school exercises substantial control over both the harasser and the context in which the known harassment occurs); *Oldham v. Penn. Stat Univ.*, 138 F.4th 731, 746 (3d Cir. 2025) (holding the “zone of interest” test applies to Title IX claims with liability where the school had substantial control over the harasser and context).

⁴³ 34 C.F.R. § 106.44(a).

⁴⁴ See, e.g., U.S. Dep’t of Ed., Ofc. Of Civil Rights, Online or Digital Sexual Harassment under the 2020 Title IX Regulations: A Resource for Students, Families and Educators (Jan. 2025),

<https://www.ed.gov/media/document/digital-sexual-harassment-under-2020-title-ix-regulations-109318.pdf>.

⁴⁵ 85 Fed. Reg. at 30177-78.

⁴⁶ See, e.g., *Doe v. Gavins*, No. 22-cv-10702, 2023 WL 6296398 (D.Mass. Sept. 27, 2023) (harassment based on gender-nonconforming appearance); *Pratt v. Indian River Central Sch. Dist.*, 803 F.Supp. 2d 135, 151-52 (N.D.N.Y. 2011) (harassment based on perceived nonconformity to sexist stereotypes, sexual orientation); *Martin v. Swartz Creek Community Sch.*, 419 F.Supp. 2d 967, 973-74 (E.D.Mich. 2006) (harassment based on sexual orientation).

⁴⁷ 34 C.F.R. § 106.30(a) (defining “sexual harassment”).

⁴⁸ See *Bougher v. Univ. of Pittsburgh*, 882 F.2d 74 (3d Cir. 1989) (finding that Title IX claims arising in Pennsylvania apply state’s 2-year statute of limitations period for personal injury actions).

⁴⁹ 34 C.F.R. §§ 106.8(a), 106.30(a) (effective Aug. 15, 2020).

⁵⁰ *Id.* § 106.30(a) (“actual knowledge”); 85 Fed. Reg. at 30115-16 n.517, 30192; see also 34 C.F.R. § 106.30(a) (defining “complainant”).

⁵¹ 34 C.F.R. § 106.44(a), (b)(1).

⁵² *Id.* § 106.30 (defining “formal complaint”).

⁵³ *Id.* § 106.44(a).

⁵⁴ *Id.* § 106.44(a).

⁵⁵ *Id.* § 106.30(a) (“actual knowledge”); 85 Fed. Reg. at 30115-16 n.517, 30192; see also § 106.30(a) (defining “complainant”).

⁵⁶ *Id.* § 106.44(a). See e.g., *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 262 (6th Cir. 2000) (finding deliberate indifference found where student was subjected to three incidents of peer harassment and school administrator continued to use the same ineffective measure of “talking to the offenders” which produced no results).

⁵⁷ *Id.* §§ 106.44(a), 106.30(a) (defining supportive measures).

⁵⁸ *Id.* § 106.30(a) (defining supportive measures).

⁵⁹ *Id.* § 106.44(a).

⁶⁰ *Id.* § 106.30(a) (defining supportive measures).

⁶¹ *Id.* § 106.30(a) (defining supportive measures); 85 Fed. Reg. at 30267.

⁶² *Id.* § 106.44(b)(1).

⁶³ *Id.* § 106.45(b)(1)(iv).

⁶⁴ *Id.* §§ 106.45(b)(1)(ii), 106.45(b)(1)(iv); 85 Fed. Reg. at 30264-65.

⁶⁵ *Id.* § 106.45(b).

⁶⁶ *Id.* §§ 106.45(b)(2), 106.45(b)(3)(ii), 106.45(b)(5)(v), 106.45(b)(1)(ii), 106.45(b)(6), 106.45(b)(1)(i).

⁶⁷ *Id.* § 106.45(b)(9).

⁶⁸ *Id.* § 106.44(b)(1).

⁶⁹ *Id.* §§ 106.30 (defining formal complaint), 106.6(g).

⁷⁰ See *id.* § 106.30 (defining formal complaint).

⁷¹ *Id.* § 106.45(b)(2)(i).

⁷² *Id.* § 106.45(b)(9).

⁷³ See *id.* § 106.30 (defining formal complaint).

⁷⁴ *Id.* § 106.45(b)(9).

⁷⁵ *Id.* § 106.45(b)(9)(i).

⁷⁶ *Id.* § 106.45(b)(9)(i).

⁷⁷ *Id.* § 106.45(b)(5)(i).

⁷⁸ *Id.* § 106.45(b)(5)(ii).

⁷⁹ *Id.* § 106.45(b)(5)(iii).

⁸⁰ *Id.* § 106.45(b)(5)(iv).

⁸¹ *Id.* § 106.45(b)(5)(v).

⁸² *Id.* § 106.45(b)(5)(vi).

⁸³ *Id.*

⁸⁴ *Id.* § 106.45(b)(5)(vii).

⁸⁵ *Id.* § 106.45(b)(7).

⁸⁶ *Id.* § 106.45(b)(1)(vii).

⁸⁷ *Id.* § 106.45(b)(7). Schools may use a single decision-maker or a panel of decision-makers and may use their own employees or outside professionals. U.S. Dept. Educ., *Decision-Makers*, www.ed.gov/media/document/decision-makerspdf-35147.pdf (last accessed June 22, 2026).

⁸⁸ *Id.* § 106.45(b)(8)(i).

⁸⁹ *Id.* § 106.45(b)(8)(ii).

⁹⁰ *Id.* § 106.45(b)(1)(v).

⁹¹ *Id.*

⁹² 85 Fed. Reg. at 30271-72.