

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #2

TITLE IX: COMPLIANT GRIEVANCE PROCESS PT 1

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January 2024

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FUTURE MEETINGS

- ▶ February ONLY – first Tuesday, February 6
- ▶ March – June – second Tuesday each month
- ▶ Each meeting is at 8am PT/9am MT for 1 hour

OVERVIEW OF GRIEVANCE PROCEDURES



TITLE IX FORMAL GRIEVANCE PROCESS – MUST PROVIDE FOR “PROMOTE AND EQUITABLE RESOLUTIONS OF STUDENT AND EMPLOYEE COMPLAINTS”

TIX Coordinator

Report

- Voluntary
- Mandatory

Supportive Measures

- Referrals
- Safety plans
- No-Contact
- Class/schedule change
- School escort
- Parking mods
- Academic help
- Education
- Etc.

Formal Complaint

- Intent
- Allegations
- Signature*

- Not sexual harassment;
- Not in United States; or
- Not education program/activity

Dismissal*

- HR
- Supervisor
- Principal
- Counselor

Referral

Notice of Allegations

Investigation

- Interviews
- Evidence
- Preliminary Report
- Final Report

Decision Process

- Written Questions
- Decision
- Sanctions
- Outcome Letter

Appeal

- Paper only
- Uphold
- Change sanctions
- Remand

Sanctions & Remedies

- Only applied after appeal concluded
- May be disciplinary

Notice

Informal Resolution

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Actual knowledge** - Notice of sexual harassment or allegations there of to the TIX Coordinator OR to ANY employee of an elementary or secondary school
- ▶ **Formal Complaint** – A document filed by the complainant or signed by the TIXC alleging sexual harassment against a respondent requesting the school investigate
 - ▶ Complainant must be participating in or attempting to participate in an educational program or activity

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Sexual Harassment** – conduct on the basis of sex that is:
 - ▶ Quid pro quo by an employee (conditioning of a benefit, help, etc. on participation in sexual contact); OR
 - ▶ Unwelcome conduct that is so severe, pervasive and objectively offensive that it effectively denies access; OR
 - ▶ Sexual assault – forcible or nonforcible sex offense; OR

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Sexual Harassment** (con't)– conduct on the basis of sex that is:
 - ▶ Dating violence – violence committed within an intimate or romantic relationship; OR
 - ▶ Domestic violence - misdemeanor or felony crime; OR
 - ▶ Stalking – a course of conduct directed at a specific person that would cause a reasonable person fear for their safety or other's safety or to suffer substantial emotional distress.

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ When you have **actual knowledge** of **sexual harassment** in an **education program or activity** – must respond in a way that is not deliberately indifferent
- ▶ You must:
 1. Treat complainants and respondents equitably
 2. Follow a 106.45 compliant grievance process BEFORE implementing disciplinary measures or other actions that are not supportive measures
- ▶ What if incident doesn't meet one or all parts of definition but still violates school policy?

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

Emergency removal can only be done for sexual harassment that:

1. Uses an individualized safety and risk analysis,
2. Determines an immediate threat from the allegations of sexual harassment that justify removal, and
3. Provides an opportunity of notice and to challenge the decision immediately

Cannot otherwise remove without engaging in compliant grievance process!

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ Title IX Coordinator should promptly contact the complainant to:
 - ▶ discuss the availability of supportive measures,
 - ▶ consider their wishes, and
 - ▶ explain the process for filing a formal complaint
- ▶ Document, document, document!



NEXT MONTHS – GRIEVANCE PROCEDURES CONTINUED

- ▶ Notice to parties
- ▶ Mandatory and permissive dismissal of complaints
- ▶ Consolidation of complaints
- ▶ Investigations
- ▶ Opportunity to submit questions or live hearing
- ▶ Determination regarding responsibility
- ▶ Appeals

WHAT QUESTIONS OR CONCERNS HAVE ARISEN FOR YOU THIS MONTH?

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