

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #5

TITLE IX: COMPLIANT GRIEVANCE PROCESS PT 4

Annie Hightower, Hightower Consulting, LLC

April 2024

Annie Hightower: Hightowerconsultingllc@gmail.com

FUTURE MEETINGS AND UPDATES

- ▶ May – June – second Tuesday each month
 - ▶ Each meeting is at 8am PT/9am MT for 1 hour
 - ▶ Exploring continuing through summer
- ▶ NEW Regs Reminder; no athletics reg for now
- ▶ Ideas on training all staff?

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

REVIEW

REVIEW

- ▶ COMPLIANT PROCESS VS COMMON PRACTICE
- ▶ Notice Components
- ▶ Dismissal
 - ▶ Mandatory
 - ▶ Permissive
 - ▶ Notice
- ▶ Consolidation

CONTINUANCE – AFTER RECEIVING FORMAL COMPLAINT – 34 CFR 106.45 PT 2 ET SEQ.

INVESTIGATION

- ▶ Baseline considerations
 - ▶ Parties are not responsible for proving the claim or defending their innocence
 - ▶ Must provide equal opportunity to present witnesses and evidence
 - ▶ Cannot restrict either party from discussing the allegations or from gathering evidence

INVESTIGATION

- ▶ Baseline considerations
 - ▶ Provide same opportunities to have people present
 - ▶ Provide WRITTEN notice of date, time, location, involved people, and purpose for all hearings, interviews, and other meetings
 - ▶ Provide equal opportunity to inspect and review evidence DIRECTLY related to allegations in complaint
 - ▶ Must have at least 10 days to review and respond
 - ▶ Must consider responses prior to finalization of report

INVESTIGATION

- ▶ Baseline considerations
 - ▶ Create a final investigation report
 - ▶ Fairly summarize all RELEVANT evidence
 - ▶ Send to the party and advisor at least 10 days before determination
 - ▶ This may be a longer time period if no hearing will be held

HEARINGS

- ▶ K-12 NOT REQUIRED TO HAVE HEARINGS – “grievance processes may, but need not, provide for a hearing.”
 - ▶ If no hearing, the decision-maker must allow each party to submit written (relevant) questions that they want asked of another party or witness
 - ▶ If decision-maker believes questions are relevant, they must ask them and provide responses to the requesting party
 - ▶ Must allow for limited follow up questions

HEARINGS

- ▶ QUESTIONS ABOUT COMPLAINANT'S PRIOR SEXUAL HISTORY GENERALLY NOT RELEVANT
- ▶ Only relevant if:
 - ▶ Used to prove someone other than respondent violated policy, or
 - ▶ Specific prior incidents between parties to demonstrate consent was present

NEXT MONTHS – GRIEVANCE PROCEDURES

PT. 5

- ▶ Determinations
- ▶ Appeals
- ▶ Informal resolution
- ▶ Record keeping

WHAT QUESTIONS OR CONCERNS HAVE ARISEN FOR YOU THIS MONTH?

hightowerconsultingllc@gmail.com