Title IX Sexual Harassment Decision Tree



(1) Allegation Raised / Actual Knowledge:

- Can obtain through informal or formal report
 - · Verbal; written; online submission
 - Anonymous; in-person; 3rd person; etc.
- ANY school employee can have "actual knowledge"
 - Report to the Title IX Coord.

(2) Initial Contact with Complainant:

- Title IX Coord. contacts Complainant regarding allegation(s)
 - Discuss/offer supportive measures
 - Explain process for filing a Formal Complaint

(3a) Formal Complaint Filed:

- Send written notice of allegations to Complainant & Respondent(s)
- Review Complaint:
 - Do allegations meet definition of "Title IX Sexual Harassment"?
 - If **No** = Dismiss complaint with notice
 - Is Complainant "eligible"?
 - If **No** = Dismiss complaint with notice
 - Did allegation take place in the USA?
 - If **No** = Dismiss complaint with notice
 - Did allegation occur at District program/facility/activity/event?
 - If No = Dismiss complaint with notice
- Informal resolution?

OR

(3b) No Formal Complaint Filed:

- Should Title IX Coordinator sign a Formal Complaint?
- Offer supportive measures

(4) Investigation:

- Title IX Coordinator or Investigator: Is there bias? Conflict of Interest?
- Collect evidence that is related to the allegations
 - Parties can provide evidence, too; Both parties get equal opportunity to inspect and review all evidence
- Conduct interviews: Parties, witnesses (fact and/or expert)
 - Send notice of interview to witnesses ahead of time
- Cannot restrict a party from discussing allegations or discussing evidence
 - Can restrict witnesses from talking about the case
- Allow each party 10 days to review and respond to all related evidence and the investigative report
- Finalize investigative report and send to initial decisionmaker

(5) Opportunity to Question / Initial Determination of Responsibility:

- Initial decisionmaker gives parties opportunity to submit relevant, written questions to opposing party
 - Relevant = Is it likely to prove/disprove a fact or allegation?
 - No "sexual history questions" UNLESS (1) to show consent; (2) to show mistaken ID of Respondent
- Exchange each party's responses to the written questions
- Evaluate evidence / investigative report / written responses to questions to determine whether conduct occurred
 - · Apply standard of review preponderance of the evidence (is it more likely than not that it occurred?)
- Prepare written decision and issue to both parties simultaneously

(6) Appeal:

- Was the appeal submitted timely?
- Did appealing allege appropriate ground(s) for appeal?
- Notify opposing party of appeal and give opportunity to respond
- Issue written appellate decision and submit to parties simultaneously

Record Keeping → Title IX Coord. keeps written record of the following for seven (7) years:

 Formal complaint, log of supportive measures offered/accepted, investigative reports and records, written determination of responsibility, disciplinary consequences (if any), appeals, informal resolutions (if any).