Sexual Violence in K-12 Schools: Navigating Title IX in 2015

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OCR Guidance

- 2001 Sexual Harassment Guidance
- October 2010 Dear Colleague Letter
  – Student-on-student harassment
- April 2011 Dear Colleague Letter
  – Sexual harassment and sexual violence
- April 2014 Questions and Answers about Title IX and Sexual Violence
- April 2014 White House Task Force Report
- April 24, 2015 Dear Colleague Letter
  – Title IX Coordinators
April 2014 FAQ Guidance

- School’s obligation to respond to sexual violence
- Title IX Policy
- Title IX Coordinators
- Title IX Procedural Requirements
- Responsible employees and reporting
- Confidentiality
- Investigation, Hearings and Interim Measures
OCR Title IX Enforcement

- May 2014 – List of Colleges & Universities Open Title IX Sexual Violence Investigations

- Title IX complaint investigation protocol

- Resolution Agreements
Title IX & K-12 Schools

- OCR Guidance applies to elementary and secondary schools

- Responding to Sexual Violence:
  - Sexual assault on school grounds
  - Sexual assault off school grounds
  - Related or retaliatory harassment
Issue Spotting

- **Monday morning report:** Junior female high school student reports to teacher that she was sexually assaulted Saturday night by a male classmate at a friend’s party. She asks teacher not to tell anyone.
Issue Spotting

- **Order of protection:** Principal served with order of protection requiring 17 year old male student to have no contact with 16 year old female student due to alleged sexual assault.
Title IX Violation

- When the alleged conduct creates a hostile environment AND
- The school, upon notice, fails to take prompt and effective steps reasonably calculated to
  - end the sexual violence,
  - eliminate the hostile environment,
  - prevent its recurrence and,
  - as appropriate, remedy its effects
Reports to Title IX Coordinator

- All allegations of sexual harassment or assault must be reported to Title IX Coordinator
  - Policy must identify Title IX Coordinator
  - Training for
    - All “responsible employees” on general Title IX obligations
    - Title IX Coordinator(s)
Related or Retaliatory Harassment

Watch for:

Online or in-person . . .

- Harassment by accused
- Retaliatory harassment by accused or accused’s friends
District’s Obligation to Respond

- Report to Title IX Coordinator
- Provide Interim Measures
- Conduct prompt and thorough investigation
- Make a determination
- Take prompt and effective steps reasonably calculated to eliminate hostile environment, prevent recurrence and remedy effects
Issue Spotting

On-School grounds:

- 4th grade male student tells janitor an older male student inappropriately touched him in bathroom.
- Sixth grade female student tells dean that two male students raped her in bathroom.
Issue Spotting

- **Hazing:** Freshman makes varsity baseball team. After first practice, varsity team members pull boys’ pants down and sodomize him with sticks.
Best Practices

- Policies
  - Non-discrimination notice
  - Identify Title IX Coordinator
  - Clearly establish grievance procedures
  - Distribute to parents and students
Best Practices

- **Investigations**
  - Prompt, thorough, and equitable
  - Do not wait for outcome of pending criminal investigation
  - Communicate about process and interim measures
  - Thoroughly interview alleged victim, perpetrator and witnesses
Best Practices

**Response:**
- Make a determination
- Respond appropriately and effectively:
  - Discipline
  - Avoid contact
  - Increased supervision
  - Counseling
  - Additional support and resources
  - School-wide interventions
  - Notification to parties of outcome
  - Follow-up