



Overview of Final Rules on Title IX for K-12 Schools

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Introductions



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What People are Saying

Implementation
deadline 8/14/20

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Forces school to
ignore many reports
of sexual harassment
and requires schools
to utilize procedures
that won't treat
victims fairly

New process that
treats Title IX
matters differently

Introduction

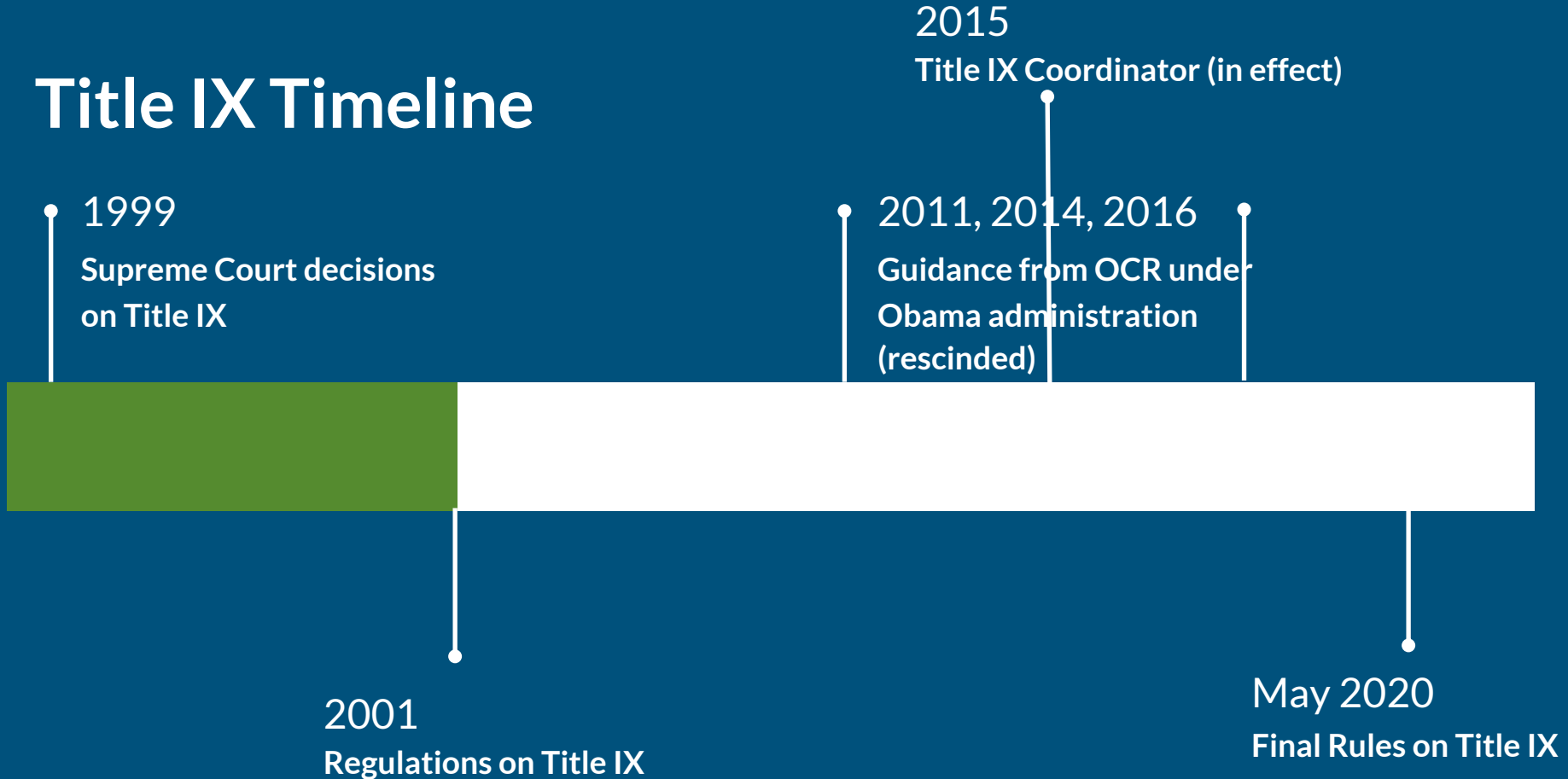
- Implementation Challenges
- 15 Key Changes under the New Regulations
- Next Steps

History of Title IX

- Title IX was passed in 1972
- Parity in sports – facilities, scholarships
- Sexual harassment under Title IX - 1999
- Compliance scramble

Today's session is a brief introduction to these Regulations and serves as "cliff notes" to the regulations, highlighting some of these changes.

Title IX Timeline



Implementation Challenges

- Guidance document is over 2,000 pages
- Significant changes to how Title IX will be managed
- Implementation date of 8/14/20
- Other distractions on campus - pandemic, shelter-in-place
- Extensive training requirements



15 Changes to Title IX

Highlight of 15 significant changes to Title IX that have impact to **your policies, procedures, and practices.**

Notice

- Upon receipt of notice of sexual harassment, what response is necessary?
- WHO?
 - Officers with authority to take action upon a report of sexual harassment
 - In K-12 districts, this is ALL employees

Definition of Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

- Quid pro quo sexual harassment;
- Hostile environment sexual harassment, defined as unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectionably offensive that it effectively denies a person equal access to the school's education program or activity (emphasis added); or
- Sexual assault, dating/domestic violence, or stalking (VAWA definitions)

Jurisdiction for Title IX

- **Complainant must:**
 - be currently enrolled, or
 - attempting to enroll
- **Sexual harassment must occur:**
 - in a school's "education program or activity" and must be in the United States
 - includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the contexts in which the sexual harassment occurred
- **Sexual harassment complaint **MUST** be dismissed if:**
 - would not fit within the definition of sexual harassment
 - did not occur in an education program or activity of the school
 - did not occur in the United States
- **Sexual harassment complaint **MAY** be dismissed if:**
 - complainant withdraws formal complaint in writing
 - respondent is no longer enrolled as a student or employed by school
 - circumstances prevent school from gathering evidence that would be sufficient to reach a determination

- Schools may not restrict the rights afforded under:
 - **First Amendment**
Free Speech
 - **Fifth Amendment**
Protection against Self-Incrimination
 - **Fourteenth Amendment**
Due Process



Requirement of a Formal Complaint

- Schools are **required to investigate formal complaints** received in writing from complainant.
- The **Title IX Coordinator may file and sign** a formal complaint.
- If the complainant does not file a formal complaint, **the wishes of the complainant should be respected.**
- Unless the Title IX Coordinator decides to initiate the complaint and it **“is clearly not unreasonable in light of the known circumstances.”**



Title IX Coordinator

- Name, office address, email address, phone number of **Title IX Coordinator** available
- Distributed to students, employees, applicants for admission and employment, parents and legal guardians, and unions
- Reports by telephone number, mail, email, and verbal reports to Title IX Coordinator

Responsibility to Respond

- Schools cannot be deliberately indifferent to report of sexual harassment (Supreme Court - Gebser standard from 1999).
- Mandatory obligations include offering “**supportive measures**” to complainant that must be non-punitive, non-disciplinary, and not unreasonably burdensome on the other party.
 - **GOAL: Provide both parties with equal access to their education, protect safety, and deter sexual harassment.**
- No action can be considered “disciplinary” against a respondent at this stage.

Grievance Process Requirements

- Fair, equitable, without bias or conflict of interest, not reliant upon stereotypes
- Advisors for the parties are permitted
- Separate decision-makers in process – i.e., investigator separate from the ultimate decision-maker (policy violation decision)
- Standard of evidence – preponderance of the evidence or clear and convincing
- Burden on the school to gather evidence
- Share all information with parties
- Hearings for adjudication of policy violations are allowed but not required for K-12 schools
- Final report issued and parties advised of outcomes
- Appeal allowed for both parties

Hearing Panels

- Allows a hearing after the initial investigation is completed.
- Cross-examination of parties and witnesses by the advisor to a party is permitted.
- School must provide a trained advisor for the other party when other party has advisor.
- Hearing could be run by an officer or a panel.

A photograph showing two hands holding pens and writing on a document. The hands are positioned on either side of the document, which is lying flat on a surface. The background is blurred, suggesting an office or legal setting. The image is overlaid with a semi-transparent blue filter.

Rape Shield Protection

- No questions or evidence of complainant's prior sexual acts (referred to as "rape shield protections") because they are irrelevant.
- Unless offered to prove someone other than respondent committed the act or offered to prove consent.

Retaliation Prohibited

Prohibition against retaliation is required, including the following provisions:

- Protections for all participants in an investigation
- Bringing charges against a student under the code of conduct that are based on the same allegations in the Title IX sexual harassment matter would be considered retaliation
- Schools must keep confidential the identity of parties except as necessary to carry out the investigation to avoid a potential retaliation claim
- Schools should adopt a grievance process for retaliation and published it
- If either party exercising their 1st Amendment free speech rights, this would not constitute retaliation
- Bringing a code of conduct matter for providing false information in the Title IX process does not constitute retaliation

Appeals of Decisions

- An appeal process for dismissal of a formal complaint or a finding of policy violation must be in place
- Policy must allow for appeal if:
 - **Procedural irregularity** that affected the outcome of the matter;
 - **Newly discovered evidence** that could affect the outcome;
 - Title IX personnel had a **conflict of interest or bias** that affected the outcome.

Timelines

- Reasonable time to complete investigation.
- 60 day timeline no longer applies.

Training

Robust training requirements for any participant in the Title IX investigation process, including:

- **Anti-bias training**
- **Avoiding stereotypes**
- **Other Title IX topics**



Title IX Coordinator
Title IX Investigator
Advisors
Hearing Panel
Participants
Employees?

Next Steps

- Brief overview has identified some key areas that will need updating in your policies and procedures.
- Significant work will be needed to meet the 8/14/20 implementation date.
- Work closely with Title IX Office on campus to ensure the proper support is in place to make these changes.
- Incorporate Title IX training into new school year trainings.

How Vector Solutions Can Help

Helping to create safer, more effective schools for students and staff is at the heart of what we do.

Safety Suite



**STAFF & STUDENT
TRAINING**



**ANONYMOUS TIP
REPORTING**



**SDS & CHEMICAL
MANAGEMENT**



**INCIDENT
MANAGEMENT**

Professional Growth



**EDUCATOR & STAFF
EVALUATION**



**PROFESSIONAL DEVELOPMENT
TRACKING**

Staff Training

- Emergency Management
- Employment Practices
- Environmental
- Health
- Human Resources
- Information Technology
- Nutrition Services
- Security
- Social & Behavioral
- Special Education
- Transportation



Title IX Related Courses

- Title IX Compliance (*written by Megan Farrell*)
- Sexual Harassment: Staff-to-Staff
- Sexual Harassment: Student Issues & Response
- Sexual Misconduct: Staff-to-Student
- Dating Violence: Identification and Prevention



Student Safety & Wellness Training

Collection 1

Bullying & Cyberbullying

Youth Suicide

Sexual Harassment

Digital Citizenship

Alcohol, Drugs & Vaping

Collection 2

Stress & Anxiety | Depression

Healthy Relationships

Resolving Disagreements

Good Decision Making





Q & A Discussion

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