



**McGrath Training Solutions**

# **2024 Title IX Regulations**

**2020 v 2024 Changes**

**2024 Implementation Plan**

**Billie-Jo Grant, MEd, PhD**



# About McGrath & Our Systems

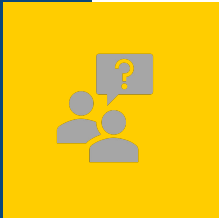
## **McGrath Response System™**

a comprehensive training system related to bullying, discrimination, harassment and misconduct (Title IX compliance) for administrators, staff and students.

## **SUCCEED with TRUE-SPEAK™**

a training system for effective and legally sound methods of communication, supervision, and evaluation for your supervisors and front-line staff.





# Questions?



# Title IX overall

**Prohibits sex based discrimination in all public and private educational institutions that receive federal funds.**

Applies to any education program or activity as part of any school operation, and includes protecting students or employees in connection with all academic, educational, extra-curricular, athletic and other school programs.



# Duty to Provide a Safe Learning Environment

School districts have a responsibility to:

1. Prevent and Train
2. Investigate
3. Remedy
4. Monitor



# Liability

1. The supervisor/school official received **notice of a pattern** of improper act;
2. The supervisor/school official demonstrated **deliberate indifference** to or tacit authorization of the offensive acts;
3. The supervisor/school official **failed to take sufficient remedial action**; and
4. Such failure proximately caused injury to the employee or student.

*District and personal liability will exist if the student/staff member proves all of the above.*



# 2024 Changes

- Originally proposed in June 2022
- 240,000 comments
- Release date: April 19, 2024
- **Effective date: August 1, 2024**



# Title IX Officer/Compliance Coordinator

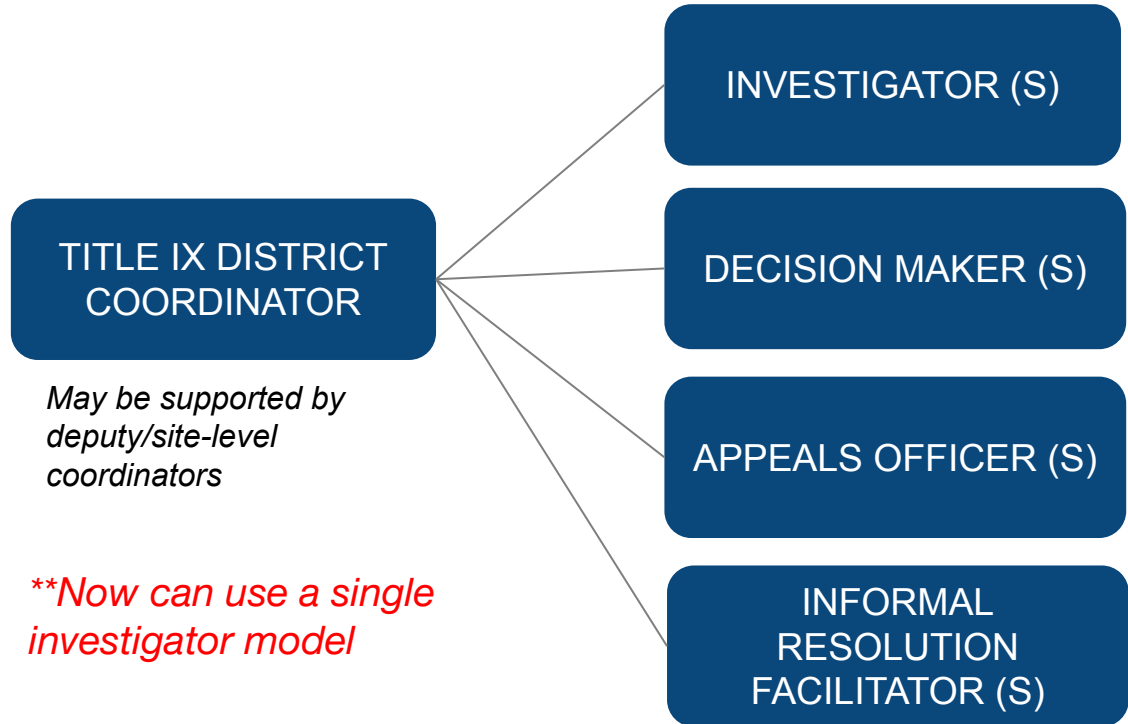
Coordinates the responses to all complaints involving possible sex discrimination, bullying, etc.

- Oversee investigations
- Monitor outcomes
- Identify and address any patterns
- Help complainants and respondents find resources





# Title IX Roles



*All team members must be impartial, unbiased, knowledgeable and free from conflicts and trained in the Title IX Regulations.*



# Investigations

- Single-investigator model
- Live hearing and cross-examination requirement optional
- Removal of 10-day window for access, review and respond.
  - *now...*provide each party with a description of relevant/permissible evidence with a reasonable opportunity to respond.

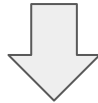


**Make sure the person  
actually receiving  
concerns and complaints  
has been fully trained and  
is able to fulfill their  
responsibility.**



# Definition Changes

Sexual Harassment



Sex-Based Discrimination

*includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation and gender identity*

# 2020 Definition

## Quid Pro Quo

Any instance of quid pro quo harassment by a school's employee;

## Hostile Environment

Any unwelcome conduct that a reasonable person would find so *severe, pervasive, and objectively offensive* that it denies a person equal educational access;

## Other Definitions/VAWA → “Specific offenses”

Any instance of sexual assault, dating violence, domestic violence, or stalking



# Definition of Hostile Environment

Changed from "severe, pervasive, and objectively offensive" (2020) to:

## 2024 definition

- unwelcome
- sex-based conduct
- that based on the totality of the circumstances is subjectively and objectively offensive and
- is "sufficiently severe or pervasive"
- that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity.



# Severe and/or Pervasive?

- **Severe** behavior can be established with a single action – if there is a likelihood of repetition or it substantially disrupts the school environment.
- **Pervasive** means the unwelcome behavior is everywhere one goes within the school environment. Happening more than once (persistent).



# Subjective and Objective tests

- Unreasonable interference with education is assessed through a two-pronged test: **subjective and objective**.
- **Subjectively**, did the alleged victim experience unreasonable interference?
- **Objectively**, would a **reasonable person similarly situated** to the alleged victim be unreasonably interfered with, given the totality of these circumstances?





# Hostile Environment & Totality of the Circumstances “Factors”

- The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity
- The type, frequency, and duration of the conduct
- The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the alleged unwelcome conduct
- The location of the conduct, the context in which the conduct occurred, and the control the recipient has over the respondent, and
- Other sex-based harassment in the recipient’s education program or activity.



# Notice is Critical

The Title IX Regulations establishes actual knowledge for K–12 Educational Institutions as occurring when ***any employee*** has notice of or allegations of discrimination on the basis of sex.



# Training

- For Coordinators, investigators, decision makers, appeal and informal resolution facilitators
- Train employees about their obligation, grievance procedures and contact information
- No longer need to publicly post
- Student training not required (caution)



# Record Keeping

- Training records
- Investigation files
  - 7 years per 2024 regulations
  - Recommend longer



# Changes

Report --> now “notification”

Formal complaint --> now “complaint”

Formal grievance process --> now  
“grievance procedures”

Pregnancy accommodations --> now  
“modifications”

Status at time of complaint --> now  
“Status at time of discrimination”



# Supportive Measure

Supportive measures must be offered to both parties

Not unreasonably burdensome to the other party

Must ensure equal educational access, protect safety, and/or deter sexual harassment may include: Counseling, course-related adjustments, schedule modifications, deadline extensions, campus escorts, increased security and monitoring, and/or mutual restrictions on contact between the parties

Opportunity to modify or reverse by impartial employee



# 504/IEP

If a complainant or respondent have a disability the school must require the Title IX Coordinator to consult with one or more members of the students IEP or 504 team with regard to

- Supportive measures
- Decision making

# Specific Civil Rights Requirements

- Application
  - Educational program or activity at time of alleged discrimination
  - Outside activity if contributing to hostile environment
- Grievance Process
  - Equitable treatment of both parties (notice, support, access to education)
  - Objective evaluation of evidence/presumption of innocence
- Standard of Evidence
  - Preponderance of the evidence
  - Clear and convincing





# Grievance Procedures highlights

- Treat parties equitably
- No conflicts
- Presumption that respondent is not responsible
- Reasonable time frames
- Protect privacy
- Objective evaluation
- Exclude irrelevant evidence
- Follow consistent process



# Federal v State v Local



# Challenges

- 22 states have filed lawsuits claiming changes were unconstitutional
- The obligation to comply with Title IX is not alleviated by any State or Local law or other requirement that conflicts with Title IX
- Failure to comply with federal regulations could result in loss of federal funds
- A recipient policy or practice that separates or treats students differently based on sex violates § 106.31(a)(2) if the policy or practice prevents a student from participating in the recipient's education program or activity consistent with their gender identity or otherwise causes a student more than **de minimis harm** (p 1259, 1524)



**Don't forget about your  
other policies**



# Covering All the Bases

- ❑ Digest DOE resources: fact sheet, summary sheet, last 50 pages
- ❑ Communicate and coordinate with leadership and stakeholders
- ❑ Review and update:
  - ❑ Nondiscrimination Policy
  - ❑ Grievance procedures
  - ❑ Notice of nondiscrimination
- ❑ Funding and staff allocations
- ❑ Establish Title IX Stakeholder Team
- ❑ Training
- ❑ Policy Implementation Timeline - Publication and dissemination
  - ❑ Website
  - ❑ Handbooks
  - ❑ Dissemination
- ❑ Compliance Documentation
- ❑ Monitor updates

*New Title IX regulations take effect August 1, 2024*



# DOE Resources

[fact sheet](#) (5 pages)

[key provisions noting changes in the final rule](#) (15 pages)

[resource for drafting policies and procedures](#) (26 pages)





## Billie-Jo Grant, PhD

McGrath Training Solutions  
Cal Poly State University  
SESAME Board Member  
[bgrant@mcgrathtraining.com](mailto:bgrant@mcgrathtraining.com)

