

TacTIX NEWS

FEBRUARY 18

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NOVEMBER 18

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TITLE IX
LITIGATION
UPDATE

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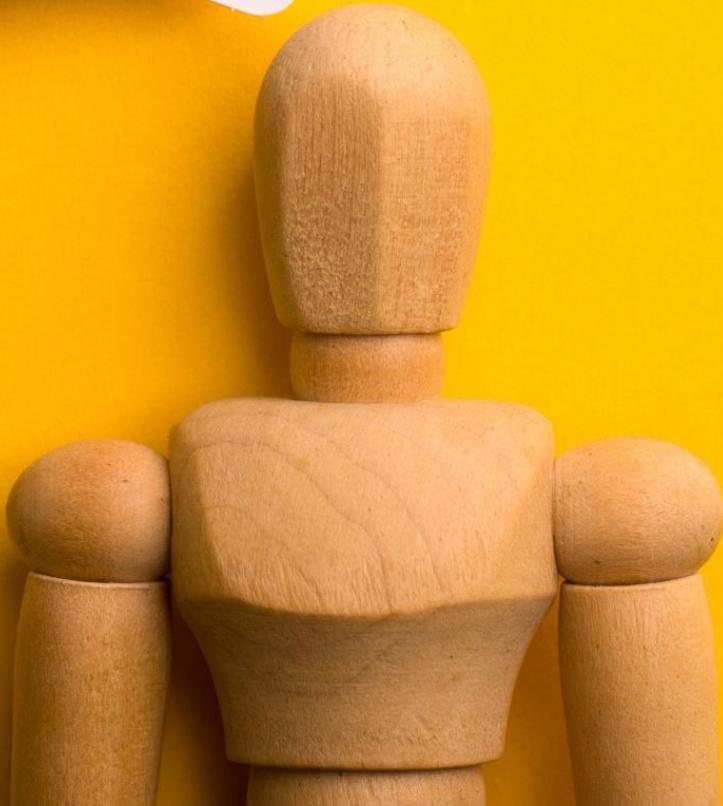
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What's new at OCR?



- ▶ New Regulations?
- ▶ Slowdown in resolutions
- ▶ Shift in approach: directed investigations over enforcement

The background is a dark blue field filled with intricate, glowing patterns. Concentric circles and swirling lines of light create a sense of depth and movement. Small, bright particles and larger, soft-edged light spots are scattered throughout, giving the impression of a dynamic, digital or scientific environment.

Title IX Regulatory Update

Where are the resolutions?



1

Resolution agreements by enforcement offices have slowed significantly: 518 in 2024 v. 177 in 2025 (with only 120 of those under the current administration).

2

OCR entered into ZERO resolution agreements for sexual harassment or assault complaints in 2025 after January 20, 2025.

3

Enforcement offices have been reduced and restructured. Title IX resolutions/findings that we are seeing are largely focused on sex and gender in athletics.

U.S. Supreme Court

Little v. Hecox

Challenge to an Idaho law prohibiting transgender girls and women from participating on female teams. The law provides that if the sex of an athlete is challenged, the athlete's sex must be medically verified.

West Virginia v. B.P.J.

Challenge to a WV law requiring students to participate on single sex teams on the basis of their biological birth sex. Female teams are not open to males; anyone can compete on a male or co-ed team.

U.S. Supreme Court

- ▶ Oral arguments suggest six justices inclined to find the laws are valid
- ▶ Question: Will the Court's ruling allow other states to have laws permitting participation by transgender athletes?



Transgender Students in Athletics

- ▶ Jan. 14th – OCR initiated 18 investigations across ten states into transgender students' participation in sports and access to locker rooms.
- ▶ Jan. 15th – Title IX Special Investigation Team opened an investigation into Transgender Participation Policy in CA.
- ▶ Jan. 28th – OCR issued a finding that San Jose State University violated Title IX by allowing a transgender female student to compete in indoor and beach volleyball and access locker rooms.
- ▶ Feb. 13th – OCR opened a directed investigation into Puyallup School District based on a claim of sexual assault by a transgender student during a wrestling match.





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JEOPARDY

NOTICE

RESPONSE

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NOTICE

Monroe v. Aldine ISD
(5th Cir., Sept. 30,
2025)

- ▶ The student contends that a bus driver's report that a student refused to remain seated on a bus should have prompted the school to review video footage of the bus ride. Such a review might have led a school official to discover sexual misconduct.
- ▶ The second incident involved sexual misconduct by the plaintiff student. The plaintiff argues that a young child sexually assaulting his classmates is an indicator or "warning sign" that the child has been a victim of sexual assault.

What is "no actual
knowledge"?

Actual Knowledge

- ▶ At most, these arguments amount to an assertion that the School District should have known that the plaintiff was a target of sexual assault, but “should have known” is not enough under Fifth Circuit precedent.
- ▶ A school acts with deliberate indifference only if they respond to a known risk in a way that is “clearly unreasonable in light of the known circumstances.”



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RESPONSE

*Blair v. Appomattox
County School Board
(4th Cir. Aug. 7, 2025)*

- ▶ When S.B. started the school year, she was “gender non-conforming” in her “dress and interests” and liked “emo” style dress, such as “band shirts and jeans, and skateboarding.” She also had a history of mental health challenges.
- ▶ Harassment and violence, perpetrated by a group of boys at school, started after S.B. began using the boys’ restroom at the suggestion of a counselor.
- ▶ Parent alleged S.B. reported sexual harassment on the bus, confirmed by the bus video, but no one interviewed the boys or imposed discipline.
- ▶ Counselor did not report the student’s gender identity issues or alleged harassment to the parent.
- ▶ To address the misconduct, the counselor told S.B. to use the nurse’s restroom instead of the boys’ restroom.

What is "deliberate
indifference"?

Deliberate Indifference

- ▶ The Fourth Circuit held that plaintiff's Title IX claim for deliberate indifference against the school board was sufficiently pleaded and should not have been dismissed, as the complaint alleged the school's response to known harassment was clearly unreasonable.



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*M.K. v. Pearl River
County School District
(5th Cir. July 18, 2025)*

- ▶ 6th grade student presented evidence that he was called names over a 6-week period at the beginning of the school year.
- ▶ In the worst class for the student, boys picked on him for being bad at video games. In another class, some boys called him "gay," prompting him to report them once, or perhaps twice. In the remaining two classes, the same boy called the student "gay" and "Gay Boy."

What is "severe"?

Severe, Pervasive, Objectively Offensive

- ▶ Damages are not available for simple acts of teasing and name-calling among school children, even where these comments target differences in gender
- ▶ Conduct was “mean-spirited” but not so severe, pervasive, and objectively offensive as to deny equal access.
- ▶ Fifth Circuit said it did not have to decide whether harassment based on sexual orientation is harassment based on sex covered by Title IX.



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*Daly v. Miller Place
Union Free Sch. Dist.
(E.D. New York,
December 3, 2025)*

- ▶ Plaintiff was bullied from Kindergarten on. In Fourth grade, some of the bullying became sexual. One student moaned “sexually” in her ear/face and made sexual comments in class.
- ▶ Plaintiff told a friend that she liked girls, and the friend told others who teased her about her sexual orientation.
- ▶ In fifth grade, C.V. called her a “f*gg*t” and said he would “hunt her.” C.F. would show her sexual videos on the school bus and tried to get her to watch porn with him. He and another student told her “rape day is coming.” And C.F. grabbed her by her thighs, pulled her “down the seat and onto his lap,” and tried to kiss her.

What is "severe, pervasive,
and objectively offensive"?

Severe, Pervasive, Objectively Offensive

- ▶ The complaint describes far more than “childish teasing and insults” and alleges objectively offensive and pervasive harm.



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RESPONSE

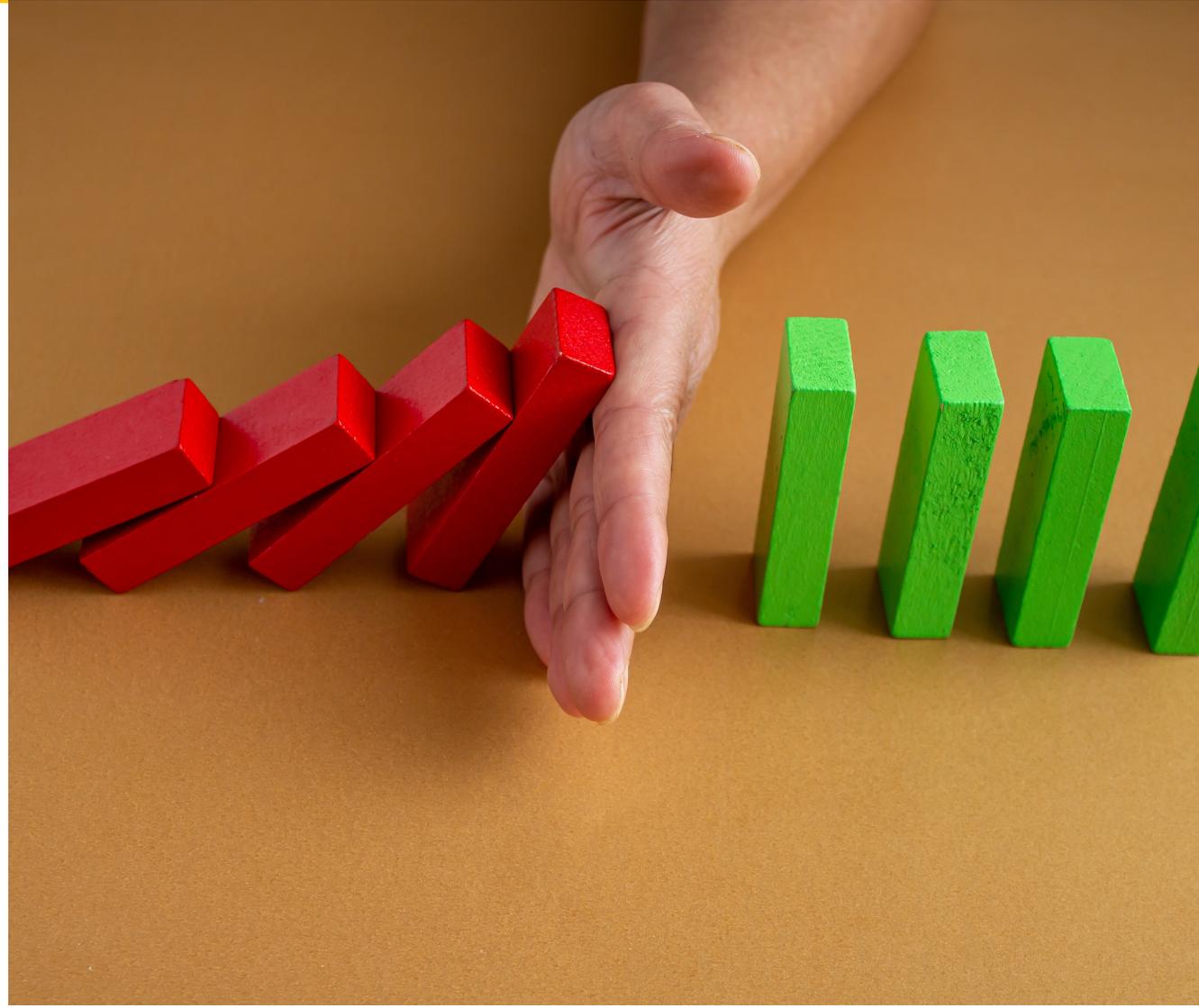
Doe v. Kerrville ISD
(5th Cir. Aug. 6, 2025)

- ▶ Former student alleged sexual harassment and abuse by two KISD teachers. One was promptly reported, investigated, and the teacher resigned.
- ▶ Inappropriate relationship then began with another teacher who was allegedly supporting her because of the initial abuse.
- ▶ KISD administrators took escalating steps to prevent an improper relationship from developing:
 - ▶ met with the teacher repeatedly to address professional boundaries;
 - ▶ repeatedly talked with Jane's parents about the inappropriate relationship developing;
 - ▶ forbade the teacher from tutoring Jane at school; and
 - ▶ issued a written directive barring the teacher from having students in his classroom outside of scheduled times.

What is "reasonable response"?

Reasonable Response

- ▶ Court found the student failed to meet her burden to prove deliberate indifference.
- ▶ In hindsight, there is perhaps more that school officials could have done to try to prevent what happened. However, “[o]fficials may avoid liability under a deliberate indifference standard by responding reasonably to a risk of harm, ‘even if the harm ultimately was not averted.’”



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Calderaio v. Central Bucks Sch. Dist. (E.D. Penn. Feb. 10, 2026)

- ▶ Choir teacher Ohert began grooming male student during his sophomore year of high school, and sexually abusing him junior and senior years.
- ▶ School was aware that student was at-risk; his mother was an abusive alcoholic, and he went back and forth between her and his dad's house and also "couch-surfed" with friends.
- ▶ Beginning at least 20 years prior to interactions with plaintiff, school had occasional reports of boundary crossing by Ohert. At one point, they restricted him from working with students "on an individual or small group basis" and directed him not to have "physical contact" unless necessary. He was also reported three times for inappropriate conversations with students.
- ▶ Plaintiff's father reported concerns that plaintiff spent too much time outside school with teacher and was becoming "anti-family," but his concerns were dismissed.
- ▶ Anonymous report expressed concern regarding teacher's relationship with plaintiff over last 3 years of high school, saying reporter thought teacher was grooming vulnerable students.
- ▶ Six years later, Ohert was arrested and successfully prosecuted for multiple accounts of sexual abuse of multiple victims

What is "actual
knowledge"?

Actual Knowledge

- ▶ “‘Actual knowledge’ does not require that the District know the full extent of abuse or receive a detailed disclosure from the plaintiff.”
- ▶ “The record includes reports of boundary-crossing conduct, favoritism toward male students, and allegations framed in explicitly sexual terms, along with evidence of a broader pattern of demeaning and bullying behavior by Ohert.”



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RESPONSE

J.B. v. Liberty Local Schools (N.D. Ohio January 28, 2026)

- ▶ 7th grade student was raped in school bathroom. She first reported to her friends, who told others, and students began to “take sides” between her and him.
- ▶ After she informed staff, they reached out to the HS principal, who was also the district’s Title IX coordinator. Did not recognize it as Title IX because no discrimination was alleged. But she did view it as a crime and reported it to JB’s parents, local police, and CPS. She also began an investigation, but did not consider emergency removal, offer supportive measures, or provide any of the required notices.
- ▶ In the two days following her report, students continued to take sides, and admin told parents they didn’t think they could keep her safe at school and parents removed her.

What is "no further harassment"?

No Further Harassment

- ▶ Because school's response did not result in further "actionable harassment" after the report, there was no deliberate indifference claim
- ▶ Court did admonish district to train their coordinator and follow the regs and their own policies



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*Doe v. Univ. of
Maryland, College Park
(D. Md. Sept. 26, 2025)*

- ▶ Jane Roe alleged that John Doe and another student sexually assaulted her. After an investigation, the University concluded Doe was not responsible.
- ▶ Roe and others embarked on a months-long public campaign to brand Doe a rapist and exclude him from campus activities.
- ▶ Doe complained to the University that Roe was retaliating against him and making false statements; did not pursue a Title IX complaint after being provided a letter from the University stating that he was not under investigation and had never been found in violation.
- ▶ Roe and PSA tried to get Doe excluded from the club Lacrosse team; Doe refiled his complaint; Title IX Office told the Director of club sports that Doe could not be excluded; complaint dismissed.

What is "rapist" is
sex-based?

Harassment and Discrimination

- ▶ “Sexual harassment” includes “sex-specific language that is aimed to humiliate, ridicule, or intimidate. ... Harassment based on sex is no more or less actionable when men call women “bitches” and “hoes” than when women brand men “rapists” and “sexual predators.”
- ▶ Exclusion from club team is sufficient to deny educational benefit.
- ▶ Response to the 1st and 3rd complaints were reasonable; 2nd may not have been as no action was taken.
- ▶ Not retaliation because participating in the grievance process as the respondent is not protected activity.



FINAL

TACTIX

JEOPARDY

FINAL JEOPARDY!

*Niblock v. Univ. of
Kentucky. (6th Cir. Jan.
20, 2026)*

- ▶ The University sponsors 25 varsity teams, 13 women, 10 men, 2 co-ed. Club teams include women's equestrian, lacrosse, and field hockey.
- ▶ 13 years ago, women made up less than 38% of varsity athletes (about half of students). By 2022-23, women were a slight majority of varsity athletes (57.8% of students).
- ▶ Sports Review Committee regularly reviews whether to add new sports, including conducting annual mandatory surveys.
- ▶ University added women's varsity stunt team in 2021. Over last 29 years also added women's soccer and softball. Met with students about elevating equestrian in 2023 and field hockey in 2017, but not enough committed interest.

What is "insufficient interest and ability"?

Sufficient Interest and Ability

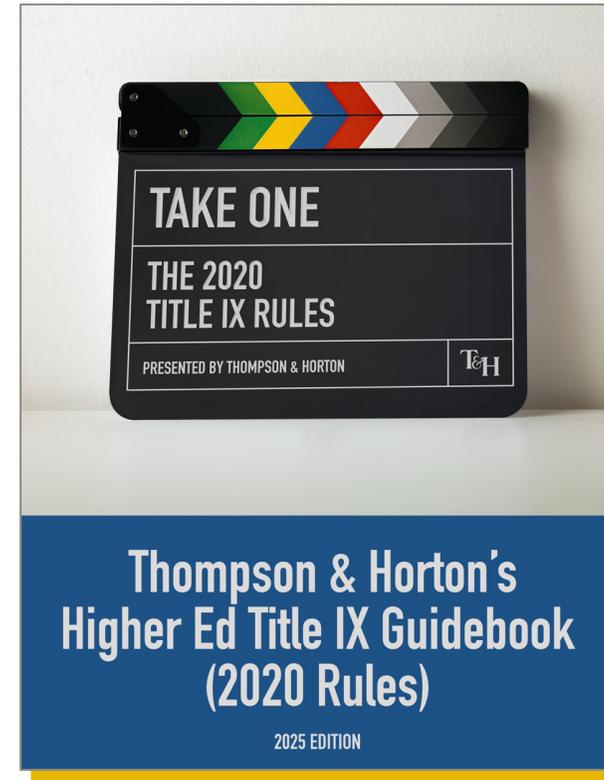
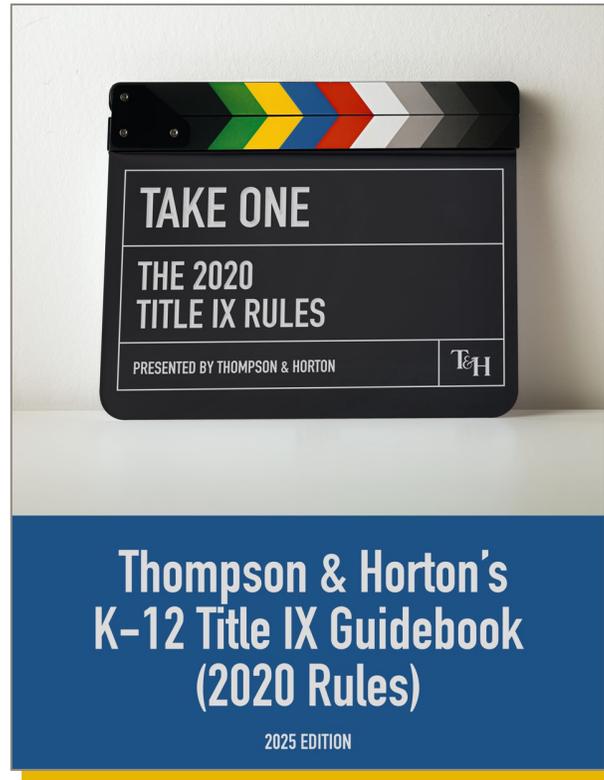
- ▶ The third prong says that a university satisfies Title IX by providing athletics programs that “fully and effectively accommodate[]” the athletic “interests and abilities” of both sexes.
- ▶ Plaintiff did not prove that there enough female athlete able to compete at the varsity level to form a team.
- ▶ Surveys showed significant interest in these sports but that students did not have the skills or commitment to play at the varsity level.





Title IX Administrators

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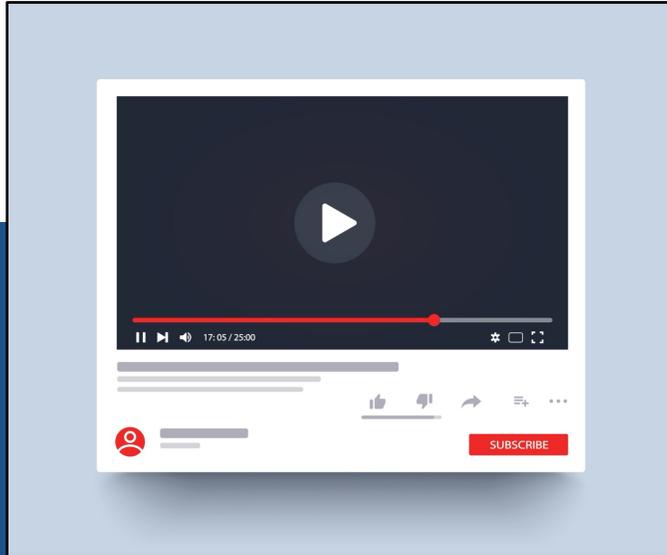
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