

DWK PRESENTS

ALIGN WITH TITLE



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Contact a DWK attorney for answers to specific questions.

Goals for this Overview

What and why of
Title IX

01

5 major changes
impacting K12

- Expanded Scope/Jurisdiction
- Increased Reporting Requirement and Training
- Complaints
- Grievance Process
- Expanded Responsibilities for Title IX Coordinator

02

Identify decision
points

03

Crafting a game plan

- Federal law enacted in 1972
 - No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
- Enforced by U.S. Department of Education (DOE), Office for Civil Rights (OCR)
 - OCR oversight
 - Loss of federal funds
- Implementing Regulations
 - Sex equity in sports programs
 - Prohibits discrimination on the basis of sex



- 2020 Overhaul
- Proposed changes in June 2022
- April 19, 2024, DOE unveils its Final Rule
- Effective August 1, 2024





- Regulations continue to cover:
 - Quid pro quo harassment
 - Hostile environment harassment
 - Sexual Assault
 - Dating violence
 - Domestic violence
 - Stalking

New definition of hostile environment harassment:

- Unwelcome, **sex-based conduct** that, based on the **totality of the circumstances**, is **subjectively and objectively offensive** and is so **severe or pervasive** that it **limits or denies** a person's ability to participate in or benefit from your education program or activity



CA Connection:

How is this similar to the CA state definitions of sexual harassment?

Regulations now *also* cover:

- Sex discrimination:
 - Sex stereotypes
 - Sex characteristics
 - Pregnancy or related conditions
 - Sexual orientation
 - Gender Identity



CA Connection:

How does this impact the already-existing obligations under California law to prevent sex discrimination?

Off Campus Conduct:

- A sex-based hostile environment, even when some alleged conduct occurred outside the educational program or activity, or outside of the US (even if you do not have disciplinary jurisdiction over that activity)
- Consideration of the impact of off-campus conduct

Expanded Reporting:

- All non-confidential elementary or secondary school employees **must** notify the Title IX Coordinator of information about conduct that could reasonably construct sex-discrimination
- Exception - confidential employees (counselors)
- Delegation of designees



Decision Point!

What, if any, specific duties will your TIXC delegate?



CA Connection:

How is this similar to mandated reporter requirements?

New Title IX Training Requirements:

- **ALL** employees now require Title IX training
- Different categories of employees require different training
- Required Annually



CA Connection:

How is this similar to other existing training requirements?



New Intake Process for Complaints:

- Complainant: Who qualifies?
- No more “formal complaints”:
 - Verbal and anonymous complaints can trigger Title IX response
- If you receive a verbal complaint, should we request that the complaint be put into writing?



CA Connection:

How is this similar to the UCP? How will this work in conjunction with the UCP and Nondiscrimination in Employment Policies?

Some things stay the same:

- Initial triage and supportive measures

Some things stay the same:

- LEAs required to have a written policy outlining the grievance process
- Supportive measures

2024 Changes:

- Decisionmaker may be the same person as TIXC or Investigator
- No more mandatory dismissals
- No right to advisors
- No more required Q&A between parties
- Confidentiality



Decision Point!
Who will be your Title IX
“team”?

Change #5: Expanded Responsibilities for Title IX Coordinators



**Potential for more
complaints to fall under
Title IX**



Monitoring



**Communications with IEP
teams**

Make decisions, make a game plan:

- Reminder: Effective August 1, 2024
- Delegation of TIXC duties?
- Update Board Policies/Administrative Regulations
 - Consider available resources
 - Timelines required in grievance procedures. What is reasonable?
 - Don't forget to update notices
- Schedule trainings
 - Focus on TIXC and Title IX team first, but remember all employees need training too



Decision Point!

Time to start planning for August 1, 2024.

Thank you



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