

SUMMER WEBINAR SERIES

SUPPORTING STUDENTS WITH DISABILITIES IN TITLE IX PROCEEDINGS

INCLUSIVE AND LEGALLY SOUND PRACTICES



SUMMER WEBINAR SERIES

**JOIN US EVERY WEDNESDAY IN JUNE AS
WE DISCUSS A VARIETY OF TOPICS!**



JUNE 18

**THE APPELLATE
DECISION
MAKER**



JUNE 25

**TITLE IX
AND
ATHLETICS**



SPEAKERS



NANCY POTTER, ESQ.



MARK WEIKER, ESQ.

AGENDA

1

HIGHER EDUCATION - TITLE IX & SECTION 504

2

HIGHER EDUCATION CASE STUDIES & BEST PRACTICES

3

K-12 EDUCATION - TITLE IX, SECTION 504, AND IDEA

4

K-12 EDUCATION BEST PRACTICES

5

Q&A



HIGHER EDUCATION

TITLE IX & SECTION 504



LEGAL FRAMEWORK OVERVIEW

UNDERSTANDING TITLE IX & SECTION 504 IN HIGHER EDUCATION

TITLE IX

Prohibits sex-based discrimination, including sexual harassment and misconduct

SECTION 504

Prohibits disability discrimination and ensures access through accommodations

WHY 504 MATTERS IN TITLE IX

- Title IX guarantees procedural fairness
- Section 504 and the ADA guarantee access to the process itself
- **Procedural fairness means little if the process isn't accessible**



HIGHER EDUCATION

CASE STUDIES & BEST PRACTICES



SCENARIO

1

Talia (Complainant)

- PTSD & Sensory Processing Disorder

SCENARIO:

- Filed Title IX complaint with her university after non-consensual sexual encounter.
- During the hearing, Talia experienced some trauma triggers.

WHAT WENT WRONG:

- High-stimulation hearing environment
- In-person cross-examination without alternatives
- No DSS coordination or accommodation review

WHAT COULD HAVE HELPED:

- Modified hearing space
- Written or trauma -informed questioning
- Support person



TAKEAWAY & LEGAL IMPLICATION

Students need access across the whole process.

In Talia's case, the process likely violated Section 504.

SCENARIO



Dante (Respondent)

- ADHD and Language Processing Disorder

SCENARIO:

- Accused of coercive conduct
- During the investigation, Dante's behavior was seen as an evasion of cooperation in the process.

WHAT WENT WRONG:

- Struggled to communicate during the interviews
- Misinterpreted as dishonest or evasive
- No accommodation provided or DSS involved

WHAT COULD HAVE HELPED:

- Communication support
- Simplified questioning
- Time extensions



TAKEAWAY & LEGAL IMPLICATION

Inconsistency is not always dishonesty

OCR requires disability-informed credibility assessments

SCENARIO

3

Jordan

- Autism Spectrum Disorder

SCENARIO:

- Accused of stalking and sexual misconduct based on benign behaviors

WHAT WENT WRONG:

- No behavioral assessment
- No DSS consultation
- No procedural accommodations

WHAT COULD HAVE HELPED:

- Title IX and DSS coordination
- Modified hearing protocol
- Neurodiversity training



TAKEAWAY & LEGAL IMPLICATION

Misinterpreting behavior without context creates risk.

BEST PRACTICES



BUILDING TRAUMA-INFORMED, DISABILITY-AWARE TITLE IX PROCESSES

- **Coordinate between Title IX and DSS at the outset**
- Re-engage the interactive process post-allegation
- Allow procedural accommodations
- Breaks, support persons, modified questioning
- Training for investigators, adjudicators, and faculty on:
 - Disability rights
 - Neurodiversity
 - Intersectional trauma
- Emphasize individualized assessments and documentation

LEGAL SUPPORT & FEDERAL GUIDANCE

LEGAL ANCHORS FOR ACCESSIBLE AND COMPLIANT TITLE IX PROCESSES

- OCR 2025 Fact Sheet
 - Emphasizes individualized and interactive accommodations



Key Cases:

- Doe v. University of Denver
 - Wynne v. Tufts
- “You don’t need a legal degree to spot when a student’s needs are being ignored. But you do need tools to fix it.”

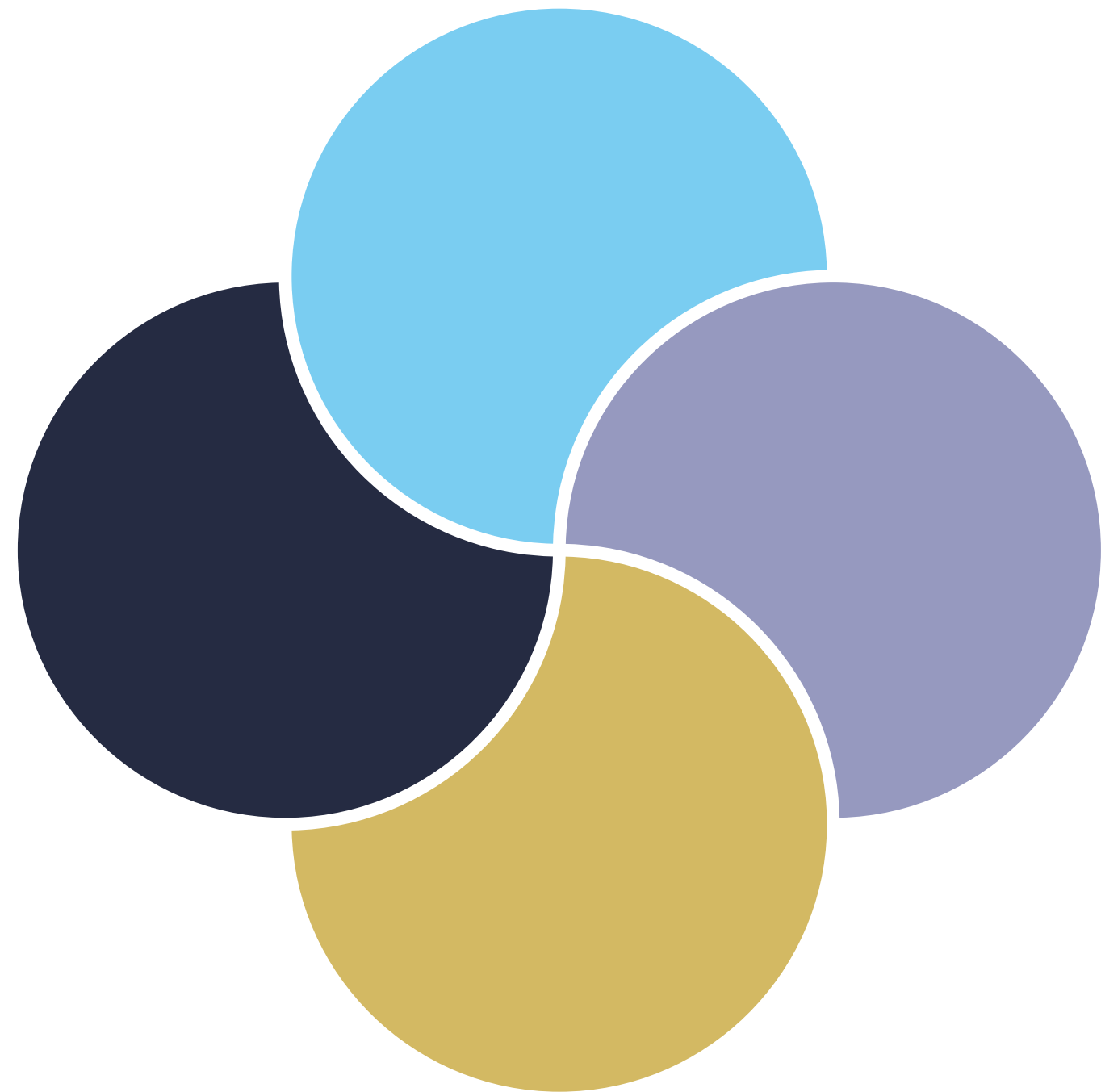


K-12 EDUCATION

TITLE IX, SECTION 504,
& IDEA



INTERSECTION OF FEDERAL LAWS



**AMERICANS WITH DISABILITIES
ACT (ADA)**

SECTION 504

**INDIVIDUALS WITH DISABILITIES
EDUCATION ACT (IDEA)**

TITLE IX

LEGAL FRAMEWORK OVERVIEW

UNDERSTANDING ACCOMMODATIONS IN K-12 EDUCATION

SECTION 504

Accommodation plan

IDEA

Direct instructions, services, and accommodations

Both require a Manifestation Determination Review (MDR) prior to a removal of 10+ days from the student's regular placement



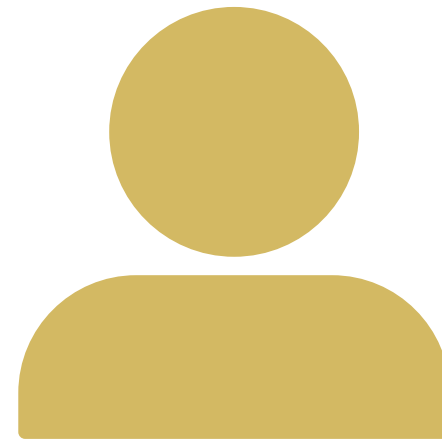
K-12 EDUCATION

BEST PRACTICES

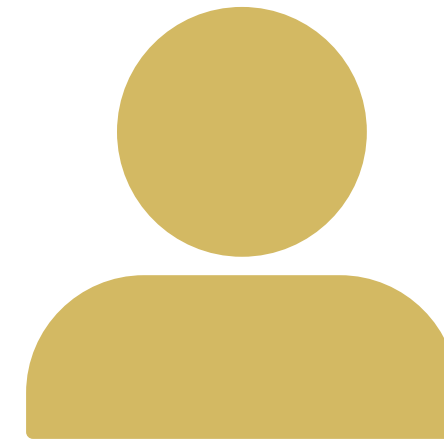


REMEMBER:

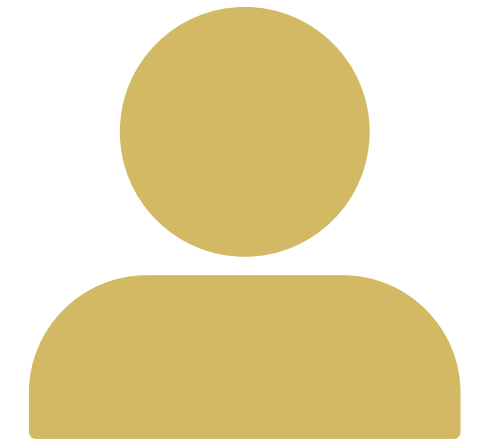
IN A TITLE IX INVESTIGATION, YOU MAY HAVE A STUDENT WITH A DISABILITY AS A:



COMPLAINANT

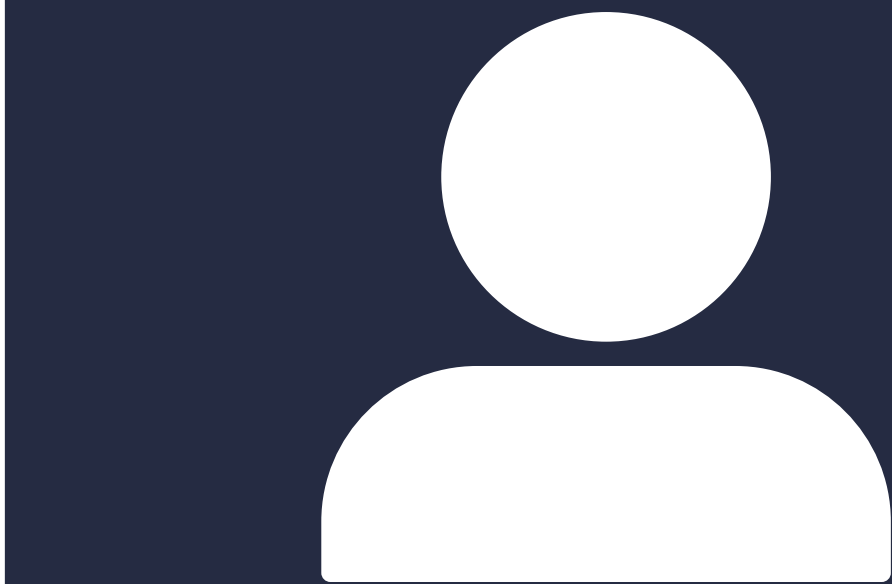


RESPONDENT



WITNESS

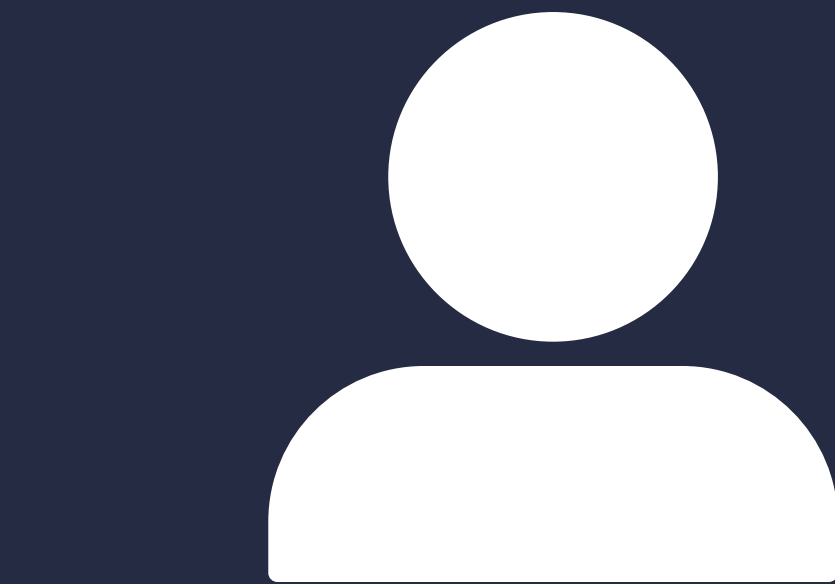
- In each case, procedural protections remain the same under Title IX
- Additional protections are available for students under Section 504 or IDEA.



COMPLAINANT

POSSIBLE ACCOMMODATIONS OR RIGHTS FOR CHANGE OF PLACEMENT:

- Instructions read aloud
- Extensions of time
- Recording devices
- Help from an aide during an interview
- Zoom interview
- Breaks during interviews
- Class changes
- Counseling
- A safe adult
- Consult with IEP/504 team or SEC
- Implementation of additional supportive measures



RESPONDENT

POSSIBLE ACCOMMODATIONS OR RIGHTS FOR CHANGE OF PLACEMENT:

- Accommodations
 - Same as Complainant
- Intent to Harass/Assault
 - Respondent's disability may have an impact on whether intentional harassment occurred, whether they had a sexual motive, or whether they could appreciate the nature of their actions
- Prior to Discipline
 - If a Respondent is found responsible, due process is triggered and there can be no change of placement (removal) for 10+ days unless or until an MDR is conducted



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BEST PRACTICES



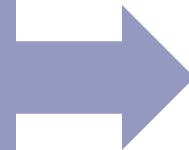
2024 REGULATIONS (RECINDED JAN. 2025) - ARE THEY NOW BEST PRACTICES?

- Definition of student with a disability
 - Means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973 or a child with a disability as defined in IDEA
- K-12 Students with Disabilities
 - School must require the Title IX Coordinator to consult with one or more members of the student's IEP team or the persons responsible for the student's placement decision under Section 504 to determine how to comply with the requirements of IDEA and Section 504 throughout the grievance procedures
 - This also applies to the implementation and termination of supportive measures

PULLING IT ALL TOGETHER

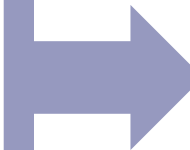
TITLE IX INVESTIGATION

Accommodations for
Students or
Employees with
Disabilities



RESPONDENT FOUND RESPONSIBLE

+ sanction will be 10+ days
change of placement
(expulsion / removal),
then MDR



MANIFESTATION DETERMINATION

If YES →
FBA/BIP + stays in school
If NO →
removal per usual process



QUESTIONS & ANSWERS

5

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WE ARE HERE TO HELP!



**WANT MORE IN-DEPTH COORDINATOR
TRAINING?**

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INSTITUTION?**

**REACH OUT TO ADRIENNE AT
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WANT TO LEARN MORE ABOUT US?

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