

Title IX PLC #4
Informal Resolution

Informal Resolution Procedure

- Sexual Harassment reported
- Formal Complaint
- Notice of allegation
- Informal Resolution Process
- Agreement in Writing (or not)
- Notice of Outcome

Roles in Title IX Informal Resolution

- Complainant
- Respondent
- Parent/guardian
- Advisor
- Informal Resolution Facilitator
- Title IX Coordinator
 - o Can be the same person NOT advised

Scope of Title IX

- Program or Activities
 - o Any property owned
 - o Any Event organized
 - o "locations, events, or Circumstance over which [the school/district] exercised substantial control over both the respondent and the context in which the sexual harassment occurs . . ."
 - o Social Media?
 - i. Was it posted while at school?
 - ii. Shared at school?

Sexual Harassment Defined

- Quid Pro Quo
- Unwelcome Conduct determine by a reasonable person to be so **Severe, Pervasive** and **Objectively** offensive.
- Sexual assault, Dating Violence, Domestic Violence and/or stalking.

Informal Resolution Scope

- Allowed:
 - o Any time after complaint, Before final decision
 - o Withdraw from Informal resolution process at any time
 - o Must agree to all terms
- Not allowed:
 - o Informal resolve complaint for student against a staff person.
 - o Informally resolve without formal complaint

Who?

- Informal resolution Facilitator cannot be the Investigator, Decision maker or a Witness It can be the Title 9 Coordinator but be cautious
 - o Avoid pressure
 - o Avoid inevitability

Written Consent Required

- Both Parties

- Title 9 Coordinator
 - o Why not
 - o Repeat Claims
 - o Multiple Parties
 - o Serious Offense

Notice

- After Consent
- Include
 - o Allegations
 - o Overview of process
 - o Right to withdraw
 - o What will happen with the records
 - Negotiations and admissions are confidential
 - Results may not be
 - o Consensus

Potential Tools

- Formal Mediation
 - o Schedule time and reach a deal
- Shuttle Negotiation
 - o Work with each side independently
 - o Act as a go between
 - o Propose Solutions
- Offer and Response
 - o Once side propose solution
 - o Other side may respond
 - o Work to an agreement
- Do not Force the complainant to face the respondent in person
 - o Unless requested by the complainant

How to Facilitate

- Listen
- Emphasize
- Communicate clear expectations
 - o For Facilitator
 - o For Parties
 - o For Evidence

Define goals/objectives

- Document the process
- Create a clear understanding with each party on what you will share with the other side.

Stay flexible

- The solution may be creative.

Remain neutral

- o You are a “go between” or “middle person” not an advocate

Conflicts of Interest and Bias

- Explicit bias: prior dealings
- Implicit bias: its real.
- Conflict of interest
 - o Appearance of impropriety

- Coach, teacher, future contact

Be Patient

- Discuss between parties/parent/guardian in writing.
- Follow up conversations with emails so there is a written record
- Set deadlines
- Sometimes it's just an apology
- Sometimes it's just being heard

Trauma Informed

- Find common ground
- Start broad
 - Tell me what happened
- You are not a fact finder
- Empathize
- Stereotypes are true
- Offer supports
 - Counselling
 - Safe person at school

Solutions

- Voluntarily unenroll
- Transfer schools
- No contact orders
- No classes together
- Non-disparagement agreement
- Counseling
- Education
- Restorative Practices

No Agreement

Requested by either party

- Any time prior to agreement
- No explanation necessary
- What records can be used in formal process when transitioning back?

Written agreement

- Parties must agree in writing to the final outcome
- Outline all terms, all expectations of behavior, include everything agreed upon
- Define remedies for noncompliance
- Title IX Coordinator has review power

Notice of Outcome

- Include signed agreement
 - Emails work
- Expectations of Parties
- Deadlines
- Follow up requirements
- How records will be maintained
- Federal law 7 years