

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #7

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MEETINGS THROUGH JUNE

- ▶ 9 am MT/8 am PT – 60 mins
 - ▶ April 8
 - ▶ **May 6**
 - ▶ **Note May date is on the 1st Tuesday**
 - ▶ June 10

CASE SCENARIOS

WHAT'S COME UP FOR YOU?

SCENARIO

At Lincoln Middle School, an eighth-grade student, Emily, confides in her friend that she has a crush on a classmate, Jake. Unbeknownst to Emily, her friend, Sarah, secretly records their conversation on her cell phone. Later that day, Sarah shares the recording in a group chat, adding false claims that Emily and Jake have been engaging in inappropriate behavior.

The rumor quickly spreads, and another student edits a photo of Emily to make it appear as though she is in a compromising position. The altered image is then circulated through Snapchat and text messages. Over the next few days, Emily becomes the target of classmates making inappropriate comments, sending her degrading messages, and mocking her in person. She begins avoiding school activities to the emotional distress.

A teacher overhears students discussing the rumors and notices a change in Emily's demeanor.

SCENARIO

- ▶ **A teacher is a responsible employee: Who else needs to know?**
- ▶ **Key questions for TIXC**
 - ▶ What immediate steps should be taken to support Emily and ensure her safety?
 - ▶ What does the school need to do before it starts investigating?

SCENARIO

▶ Grievance Process & Investigation:

- Where is the conduct occurring?
- Does the conduct meet the threshold of **severe, pervasive, and objectively offensive** harassment under Title IX?
- What steps must the school take to investigate the claim while ensuring due process for all involved?

TITLE IX FORMAL GRIEVANCE PROCESS – MUST PROVIDE FOR “PROMOTE AND EQUITABLE RESOLUTIONS OF STUDENT AND EMPLOYEE COMPLAINTS”

TIX Coordinator

Report

- Voluntary
- Mandatory

Supportive Measures

- Referrals
- Safety plans
- No-Contact
- Class/schedule change
- School escort
- Parking mods
- Academic help
- Education
- Etc.

Formal Complaint

- Intent
- Allegations
- Signature*

- Not sexual harassment;
- Not in United States; or
- Not education program/activity

Dismissal*

- HR
- Supervisor
- Principal
- Counselor

Referral

Notice of Allegations

Investigation

- Interviews
- Evidence
- Preliminary Report
- Final Report

Decision Process

- Written Questions
- Decision
- Sanctions
- Outcome Letter

Appeal

- Paper only
- Uphold
- Change sanctions
- Remand

Sanctions & Remedies

- Only applied after appeal concluded
- May be disciplinary

Notice

Informal Resolution

FOLLOW UP

▶ **Training & Prevention:**

- ▶ How should the school address the role of social media and digital communication in the spread of harassment?
- ▶ How can the school implement prevention strategies to educate students about digital responsibility and harassment?

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Actual knowledge** - Notice of sexual harassment or allegations there of to the TIX Coordinator OR to ANY employee of an elementary or secondary school
- ▶ **Formal Complaint** – A document filed by the complainant or signed by the TIXC alleging sexual harassment against a respondent requesting the school investigate
 - ▶ Complainant must be participating in or attempting to participate in an educational program or activity

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Sexual Harassment** – conduct on the basis of sex that is:
 - ▶ Quid pro quo by an employee (conditioning of a benefit, help, etc. on participation in sexual contact); OR
 - ▶ Unwelcome conduct that is so severe, pervasive and objectively offensive that it effectively denies access; OR
 - ▶ Sexual assault – forcible or nonforcible sex offense; OR

IMPORTANT DEFINITIONS – 34 CFR 106.30

- ▶ **Sexual Harassment** (con't)– conduct on the basis of sex that is:
 - ▶ Dating violence – violence committed within an intimate or romantic relationship; OR
 - ▶ Domestic violence - misdemeanor or felony crime; OR
 - ▶ Stalking – a course of conduct directed at a specific person that would cause a reasonable person fear for their safety or other's safety or to suffer substantial emotional distress.

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ When you have **actual knowledge** of **sexual harassment** in an education program or activity – must respond in a way that is not deliberately indifferent
- ▶ You must:
 1. Treat complainants and respondents equitably
 2. Follow a 106.45 compliant grievance process **BEFORE** implementing disciplinary measures or other actions that are not supportive measures

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

Students - Emergency removal can only be done for sexual harassment on an emergency basis that:

1. Uses an individualized safety and risk analysis,
2. Determines an immediate threat from the allegations of sexual harassment that justify removal, and
3. Provides an opportunity of notice and to challenge the decision immediately

Cannot otherwise remove without engaging in compliant grievance process!

Staff – A non-student employee respondent can be placed on administrative leave pending a compliant grievance process.

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ Title IX Coordinator should promptly contact the complainant to:
 - ▶ discuss the availability of supportive measures,
 - ▶ consider their wishes, and
 - ▶ explain the process for filing a formal complaint
- ▶ Document, document, document!

**WHAT QUESTIONS OR
CONCERNS HAVE ARISEN FOR
YOU THIS MONTH?**

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