

TITLE IX TRAINING FOR FACULTY

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Title IX Coordinator

Agenda

Title IX Overview

Reporting Requirements

Confidentiality

Retaliation

Summary

Title IX of the Education Amendments Act of 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 educational program or activity receiving federal financial assistance."

Title IX of the Education Amendments of 1972 Implementing Regulations
at:

20 U.S.C. §1681 & 34 C.F.R Part 106

Title IX Overview

Essentially Civil Rights legislation that specifically addresses gender in education

U.S. Department of Education Office for Civil Rights (OCR)

Early impacts seen in Athletics gender equity

April 4, 2011 *Dear Colleague Letter-Sexual Misconduct*

Title IX Overview

June 25, 2013 *Dear Colleague Letter*-Pregnant and Parenting Students

April 24, 2013 Dear Colleague Letter - Retaliation

Essential Compliance Elements

Once a *Responsible Employee* has either actual or constructive notice of sexual harassment or sexual misconduct, the school district must take action.

Who is considered a *Responsible Employee*?

Essential Compliance Elements

A *responsible employee* includes any employee who:

- Has the authority to take action to redress the harassment,
- Has the duty to report harassment or other types of misconduct to appropriate officials, OR
- Is someone a student could reasonably believe has this authority or responsibility

Essential Compliance Elements

Cripple Creek-Victor School District ***MUST*** take immediate and appropriate steps to investigate what occurred.

Cripple Creek-Victor School District ***MUST*** take prompt and effective action to

- Stop the harassment
 - Remedy the effects
 - Prevent the recurrence
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Scenario

Amy Craft, a tenth grade student at Cripple Creek-Victor High School, sets up a time to meet with her History teacher, Mr. Casey, for later that afternoon. Upon arriving for the appointment, Mr. Casey can see that Amy is very upset and looks exhausted. Mr. Casey asks if everything is ok and Amy asks if she can close the door. Casey gets up, closes the door, sits back down and Amy blurts out,

Scenario

"I think I was raped last weekend while on a date with another tenth grade student, a friend of a friend named Todd."

Because this alleged incident was reported to a school teacher employed by the District, does it trigger a Cripple Creek-Victor Title IX investigation?

DEFINITION OF SEXUAL HARASSMENT

- Sexual harassment includes three types of conduct:
 1. Quid pro quo sexual harassment by employees
 2. Sexual assault, dating violence, domestic violence, and stalking, as defined by the Clery Act
 3. Any other “unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it denies a person access to the recipient’s education program or activity

The Title IX framework is applicable both to students and employees

CHOICE OF EVIDENCE STANDARDS

- School Districts allowed choice of: • Preponderance of the evidence standard • Clear and convincing evidence standard.
- School District must use the same standard of evidence for complaints against employees, including faculty.
- School District must offer an opportunity to appeal based on procedural irregularities, new evidence, or bias or conflict of interest of coordinator, investigator, or decision-maker.
- School District can offer informal resolution instead of investigation and adjudication. • Need consent from both parties.

RESPONDING TO SEXUAL HARASSMENT COMPLAINTS

- School District's response is separate from investigation
- School District must respond to harassment reports by providing supportive services to victims
- Such services are required even if no formal complaint triggering an investigation is filed • Institutions required to investigate formal complains only.

RESPONDING TO SEXUAL HARASSMENT COMPLAINTS

- School District is required to dismiss complaints that:
 - Do not meet the definition of sexual harassment
 - Have not occurred within their educational program or activity
 - Did not affect a person in the United States
- School District still allowed to respond to misconduct that does not rise to the level of a formal Title IX complaint.

REQUIREMENTS FOR FORMAL COMPLAINTS

- The regulations contain numerous detailed requirements regarding
 - Grievance procedures
 - Notice
 - Investigations

Confidentiality

Who can hold confidentiality?

- Licensed Professional Counselors
- Clergy
- Medical Professionals

Everyone else is required to report!!

Reporting

Title IX Coordinator – Michael McDonald,
Library/Media Center

719-689-2800 or email librarydir@gmail.com

Title IX Investigator – Barbara Manning, Room 214
Cripple Creek-Victor High School

719-689-2685 ext. 1214

bmanning@ccvschools.com

Investigation

Options for complainant

- Criminal
- School District Policies
 - Student Code of Conduct
 - Employee Grievance Procedure
- Civil

Title IX Coordinator will review what most appropriate next steps are and recommend a course of action.

Title IX & Pregnancy

"A recipient (of federal funds) shall not apply any rule concerning a student's actual or potential parental, family or marital status which treats students differently on the basis of sex."

Title IX & Pregnancy

Specifically prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

Illegal to exclude pregnant students from participating in any part of an educational program, including extracurricular activities.

Title IX & Special Services

Any special services provided to students who have temporary medical conditions must also be provided to a pregnant student. Therefore, if a school provides special services, such as homebound instruction or tutoring, for students who miss school because of a temporary medical condition, they must do the same for a student who misses school due to pregnancy or child birth.

Retaliation

Unlawful for the school to retaliate against someone for bringing a complaint forward or participating in an investigation.

Unlawful for respondent to retaliate against complainant or witnesses for bringing complaint forward or participating in an investigation.

Easier to prove retaliation in many cases.

NOTABLE CHANGES FROM PROPOSED RULE

- Broadens definition of sexual harassment.
 - Includes sexual assault, dating violence, domestic violence, and stalking
 - Add protections for victims:
 - Supportive services required
 - No cross-examination by a party personally
 - No use of medical treatment records as evidence without consent
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Summary

If you have knowledge of sexual harassment or sexual assault, you must report.

Cripple Creek-Victor School District has obligation to investigate.

Cripple Creek-Victor School District will take any and all appropriate actions to

- Stop the harassment
 - Remedy the effects
 - Prevent recurrence
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NOTABLE CHANGES FROM PROPOSED RULE

- Prohibits retaliation
 - Clarifies that “program or activity”
 - Includes buildings controlled by school district.
 - Excludes conduct that did not occur against a person in the United States
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Summary

Pregnant students are in a specialized circumstance and as such entitled to special Title IX protections

All parties involved in a report and investigation are covered by federal protections from retaliation

QUESTIONS

Contact:

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