

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #8

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MEETINGS THROUGH JUNE

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

Co-Occurring Investigations: Working with Law Enforcement

Reminder: Title IX in K-12 Settings

- Title IX prohibits sex discrimination in federally funded education programs
- Sexual harassment includes quid pro quo, hostile environment, sexual assault, dating violence, domestic violence, stalking
- K-12 schools must respond when any employee has actual knowledge of sexual harassment

Your Obligations Under Title IX

- Offer supportive measures even if no investigation is requested and regardless of whether law enforcement is involved
- If a formal complaint is filed, investigate promptly and equitably
- Ensure due process for complainants and respondents (following 34 CFR 106.45)
- Must not delay Title IX obligations while waiting on law enforcement **outcomes**, but can temporarily delay

Law Enforcement v. School Roles

| | Law Enforcement | School/District Federal obligation under Title IX |
|---------------------------------|---------------------------------------------|-------------------------------------------------------------------|
| Focus of Investigation | Criminal conduct under state law | School/district policy violations |
| Purpose of investigation | Determining criminal liability | Continuing access to education and determining policy liability |
| Standard of Evidence | Probable cause Beyond a reasonable doubt | Preponderance of the evidence |
| Potential Outcomes | May arrest/prosecute | Supportive measures and may discipline and provide other remedies |

Before a Dual Investigation

- ✓ Build a relationship with law enforcement and discuss your Title IX obligations now!
 - Prevents confusion or conflict during active investigations
 - Ensures both entities understand their distinct roles and legal boundaries
 - Promotes a unified approach to student safety and rights

Before a Dual Investigation

- ✓ Establish Regular Contact
 - Identify and introduce key school and law enforcement contacts
 - Schedule periodic check-ins (e.g., quarterly meetings)
- ✓ Provide Cross-Training Opportunities
 - Offer training to law enforcement on:
 - Title IX basics and definitions of sexual harassment
 - Required timelines and due process requirements under Title IX
 - FERPA constraints and what info can/can't be shared
 - Invite law enforcement to observe or participate in Title IX-focused staff PD days

Before a Dual Investigation

- ✓ Develop Clear Communication Protocols
 - Clarify what triggers police notification vs. internal response
 - Create written guidance on:
 - What info will be shared and when
 - Who in the school district communicates with police to coordinate investigations
- ✓ Draft or Update an MOU that outlines:
 - Mutual responsibilities
 - Limits of involvement
 - Procedures for emergency removals and coordinated response

Before a Dual Investigation

- ✓ Discuss Sensitive Topics Ahead of Time
 - How to handle dual investigations - consider working through several scenarios
 - Managing press or parent inquiries during active cases
 - Student fear of police involvement as a barrier to reporting

Dual Investigations

- Law enforcement may be involved simultaneously with a Title IX process
- Schools must not wait for police to finish investigating before starting or continuing a Title IX investigation
 - **BUT: Temporary delay** is allowed if requested by law enforcement for evidence gathering (short-term, documented)

Coordination Considerations

- Understand establish MOUs or protocols with local law enforcement
- Identify points of contact in both school and police
- Clarify:
 - When/how to notify law enforcement
 - Who communicates with families
 - How information will be shared legally between entities
- Always document communications

Supporting Students Through Dual Processes

- Ensure supportive measures (counseling, schedule changes, etc.) regardless of legal case
- Inform students and families about:
 - Rights under Title IX
 - The school's process and timeline
 - The separate role of police
- Avoid actions that discourage participation in the Title IX process

Dos and Don'ts for Educators

✓ DO:

- Report any known sexual harassment to the Title IX Coordinator
- Cooperate with both internal and external investigations
- Ensure students have support regardless of process outcome

✗ DON'T:

- Promise confidentiality you can't legally guarantee
- Delay Title IX action while waiting on outcome of LE
- Discourage a student from filing a complaint

Summary and Key Takeaways

- Title IX and criminal investigations are parallel but separate
- Must act promptly and independently
- Coordination helps—but law enforcement activities cannot be complete substitute for Title IX responsibilities
- Keep students' educational access and safety at the center

WHAT QUESTIONS OR CONCERNS HAVE ARISEN FOR YOU THIS MONTH?

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