

New Title IX Regulations

Presented by: Emma J. Darling May 2, 2024

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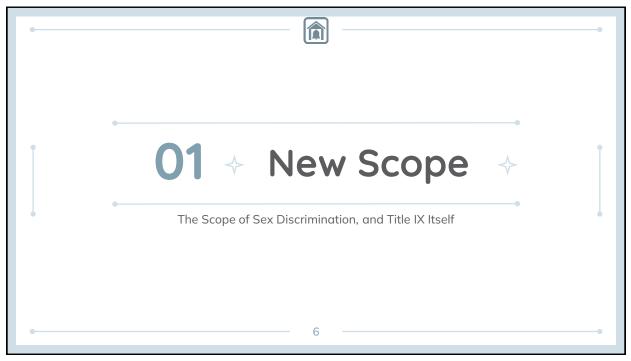




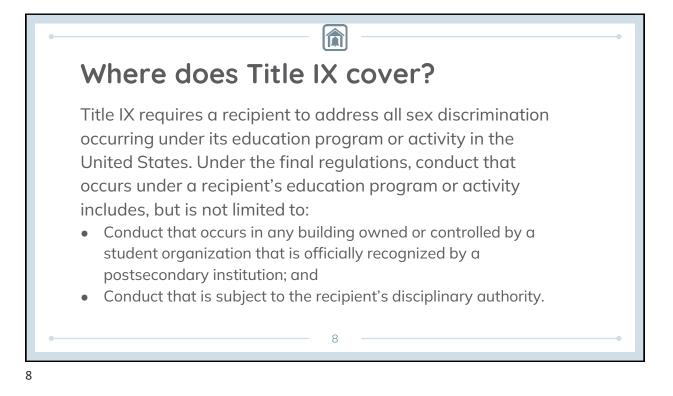
The Gettysburg Address	
272 words	
The Constitution	
4 pages	
The New Title IX Regulations	
1,577 pages	



Outline for Changes to be Covered			
1	The new scope of Title IX		
2	What is sex-based harassment? And what's this gender identity headline about?		
3	Changes to the role of the Title IX Coordinator		
4	Updates to training requirements and postings		
5	Changes to Evidence		
6	What is the new grievance procedure?		
7	When Title IX, FERPA, the IDEA, and section 504 collide: who wins?		
8	Protections for pregnancy and pregnancy-related conditions		
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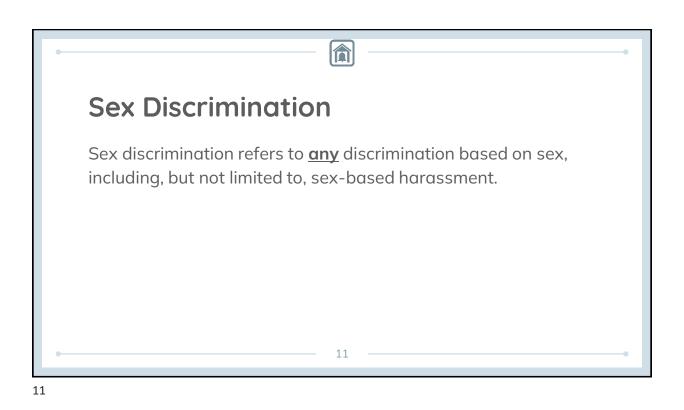


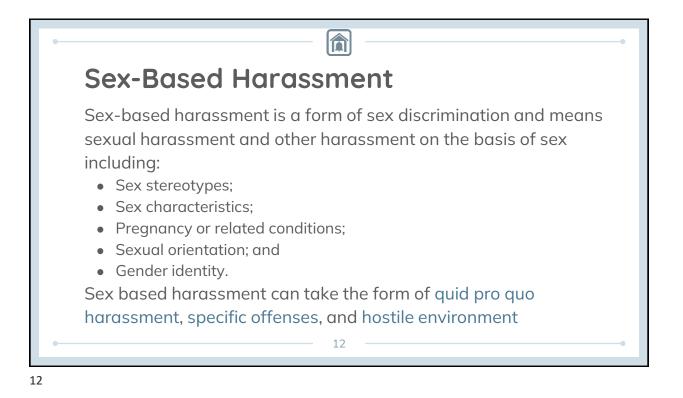


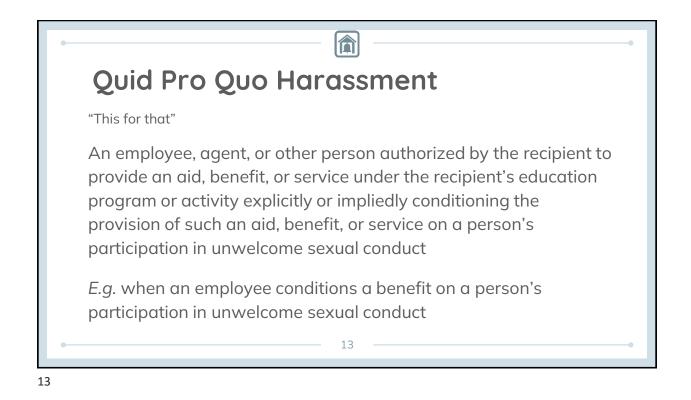














Hostile Environment Harassment

OLD DEFINITION: "...so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity."

NEW DEFINITION: Unwelcome <u>sex-based conduct</u> that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively, it denies or limits a person's ability to participate in or benefit from the recipient's education program or activity.

Hostile Environment: Double Constitution of the following:
Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
The types, frequency, and duration of the conduct;
The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
The location of the conduct and the context in which the conduct occurred; and
Other sex-based harassment in the recipient's education program or activity.

Gender Identity

The final regulations prohibit a recipient from separating or treating any person differently based on sex in a manner that subjects that person to more than de minimis harm, except in the limited circumstances where the statute allows otherwise, such as in the context of sex-separate living facilities and sex-separate athletic teams.

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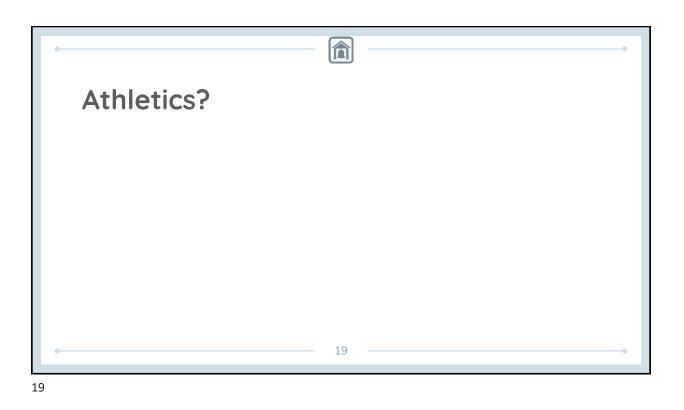
Gender Identity

The final regulations clarify that policies and practices that prevent a student from participating in a recipient's education program or activity consistent with their gender identity impose more than de minimis harm on that student on the basis of sex, and therefore generally violate Title IX's nondiscrimination mandate.

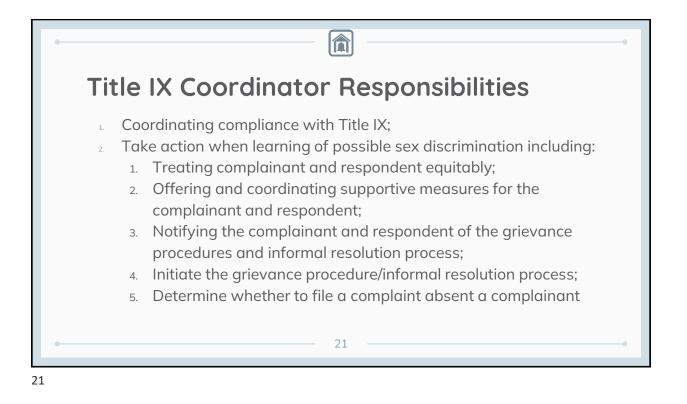
Under § 106.31(a)(2), a recipient must provide access to sexseparate facilities, including bathrooms and locker rooms, in a manner that does not cause more than de minimis harm.

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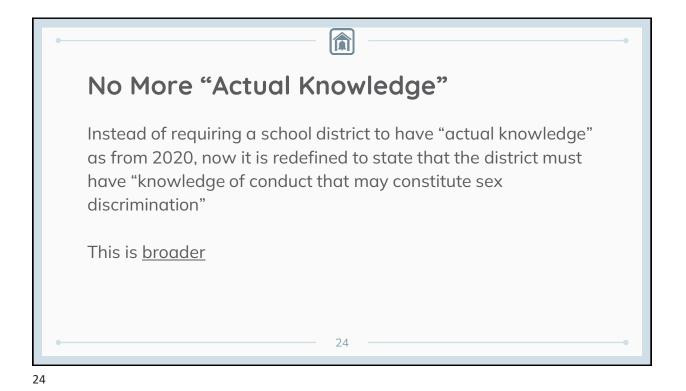


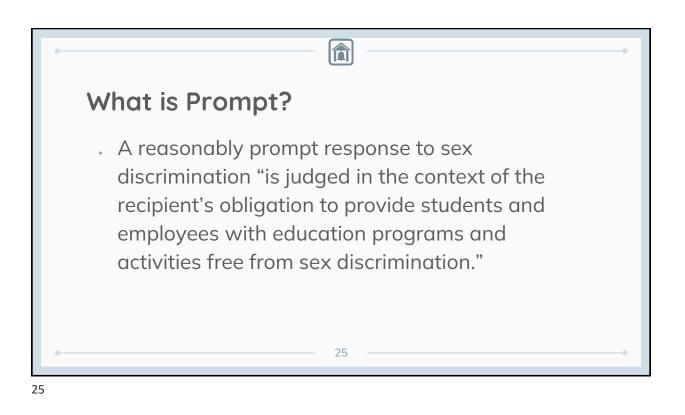


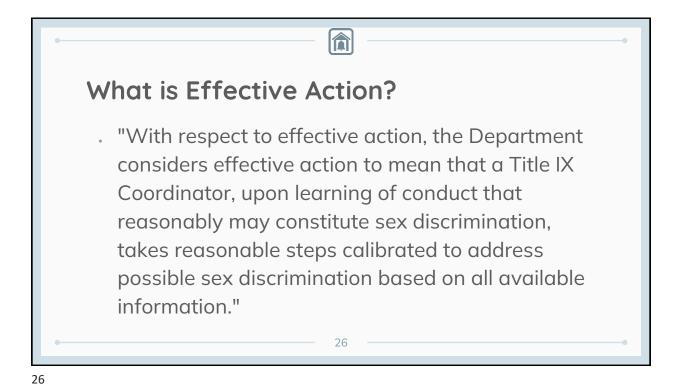




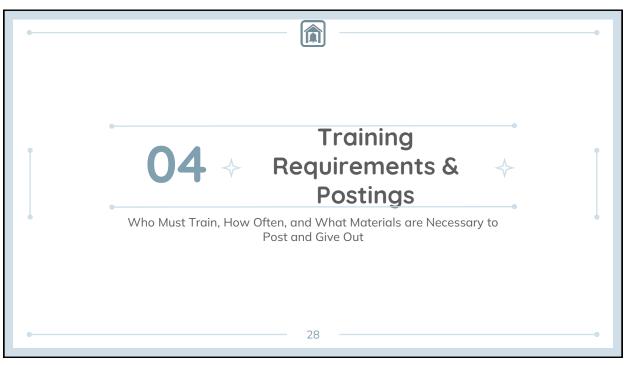


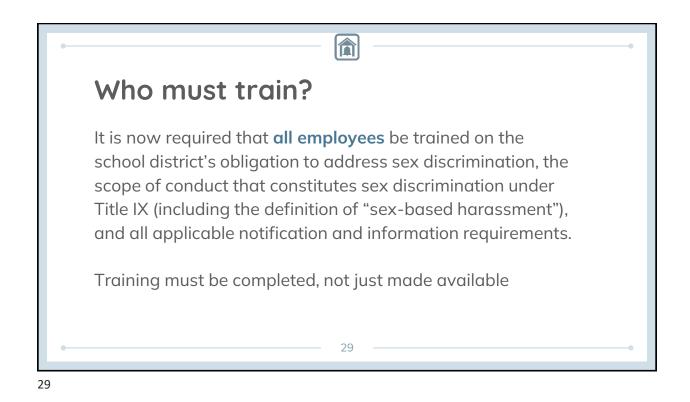


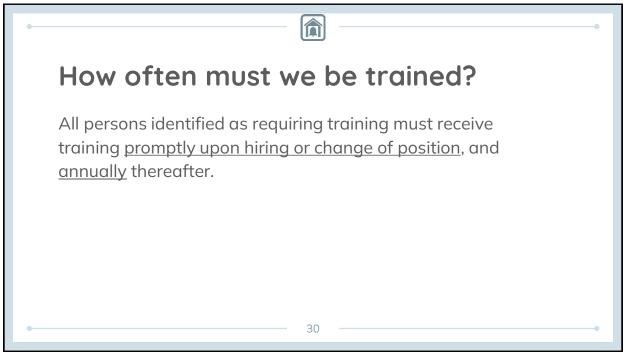


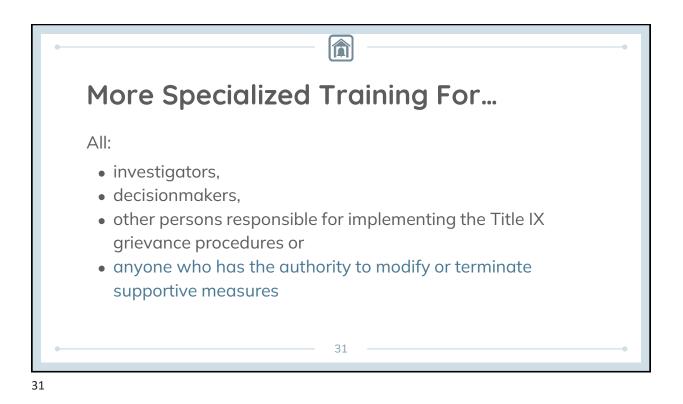


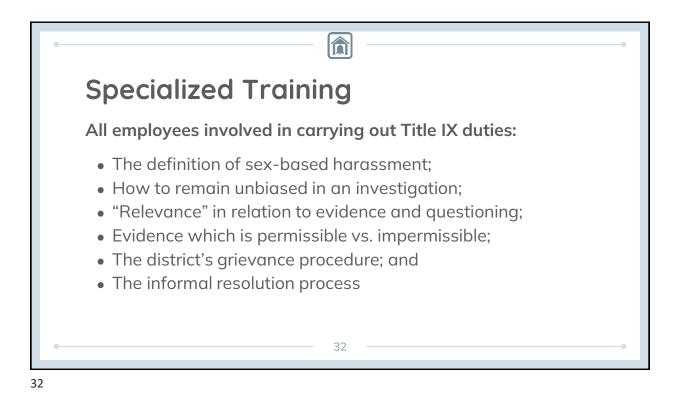
Filing a Complaint as	a Title IX Coordinator
<u>8 Factors to Weigh Before Filin</u>	<u>g a Complaint as the Coordinator:</u>
1. The complainant's request not to proceed with initiation of a complaint	5. The age and relationship of the parties, including whether the respondent is an employee of the recipient
2. The complainant's reasonable safety concerns regarding initiation of a complaint	6. The scope of the alleged sex discrimination, including information suggesting a pattern,
3. The risk that additional acts of sex discrimination would occur if a complaint is not initiated	n ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of	7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred
another disciplinary sanction to end the discrimination and prevent its recurrence	8. Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures



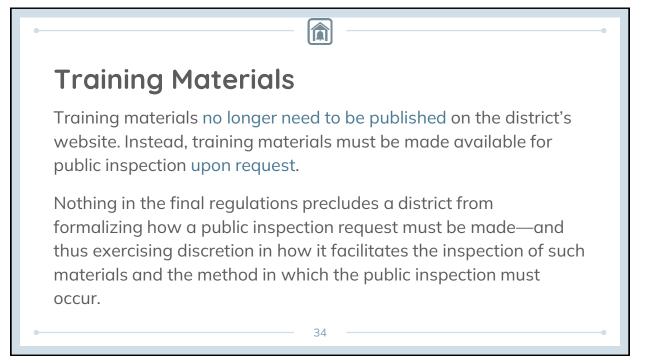




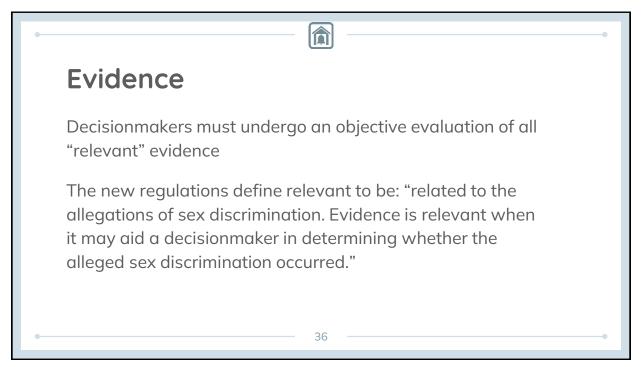


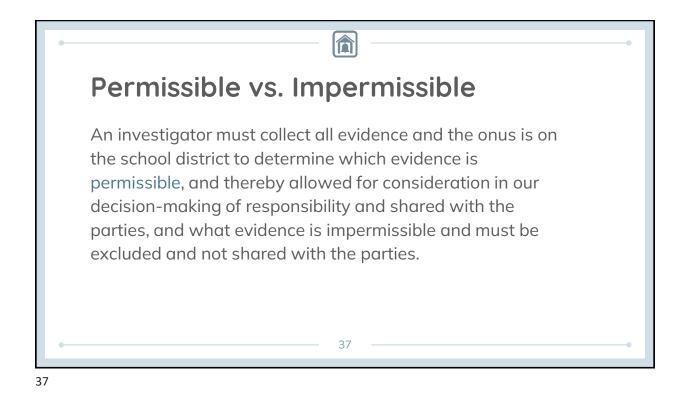


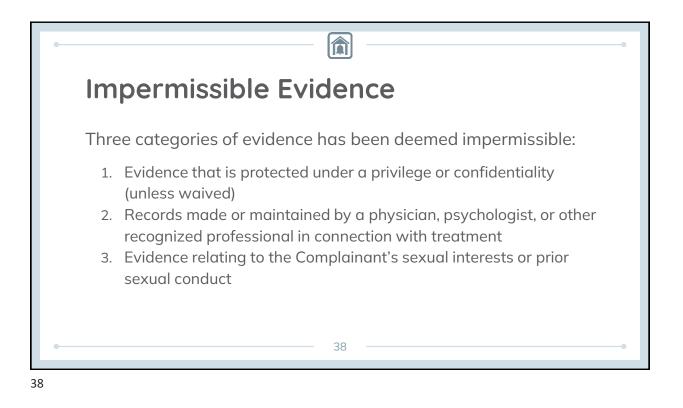




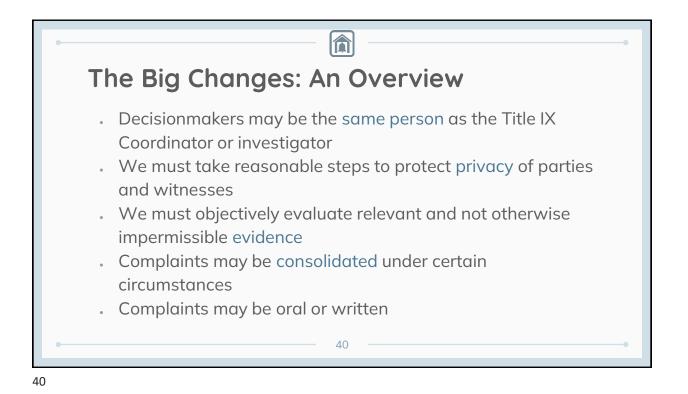


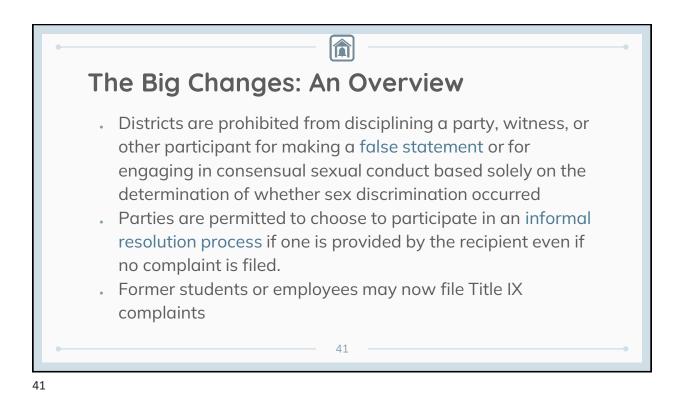


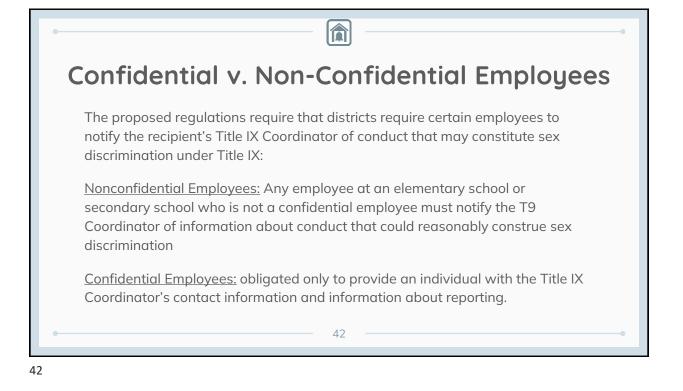


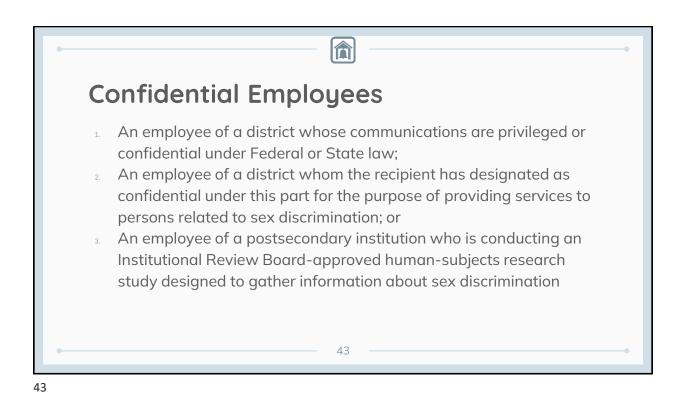


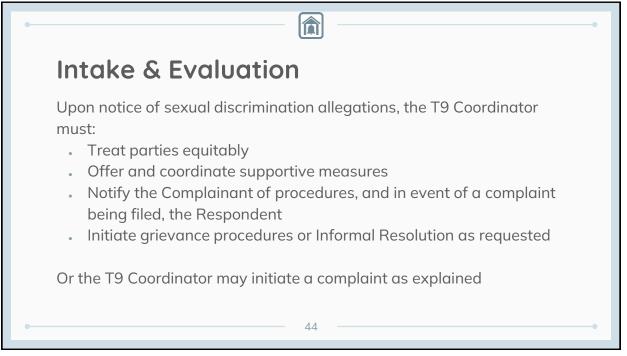


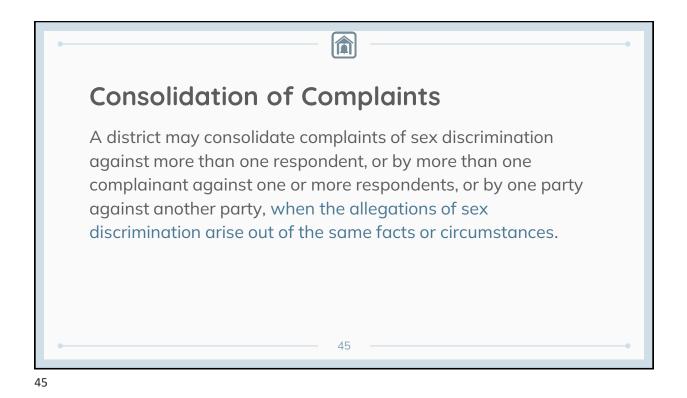


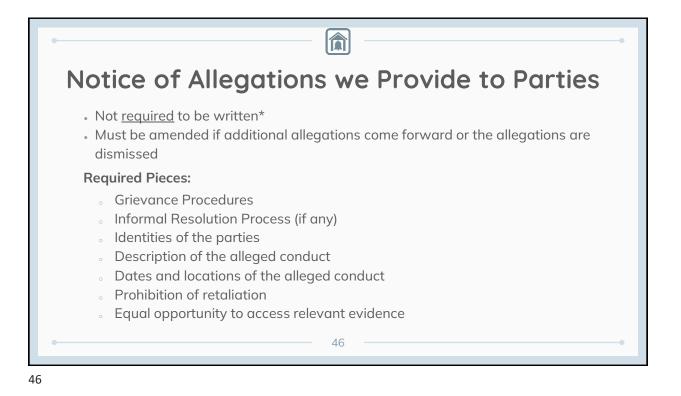




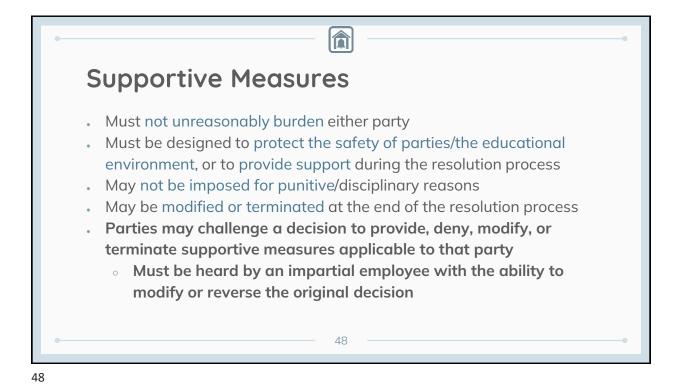


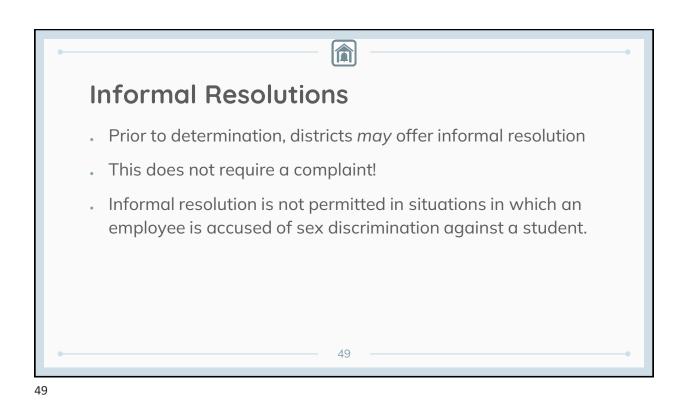


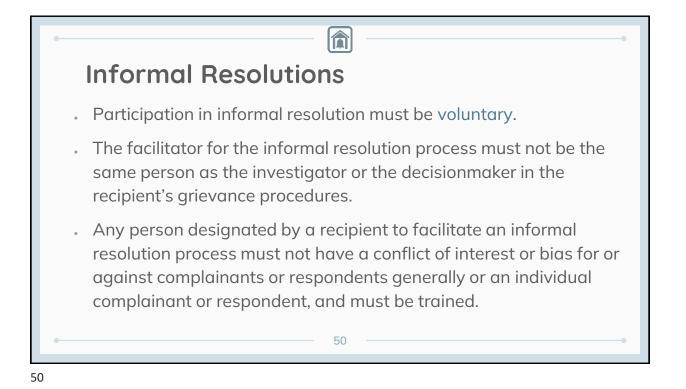


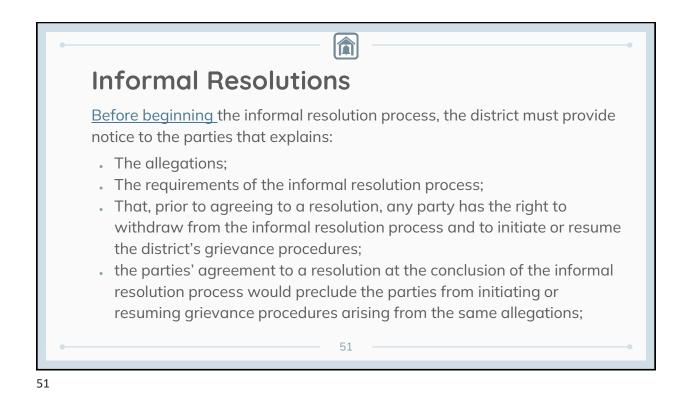


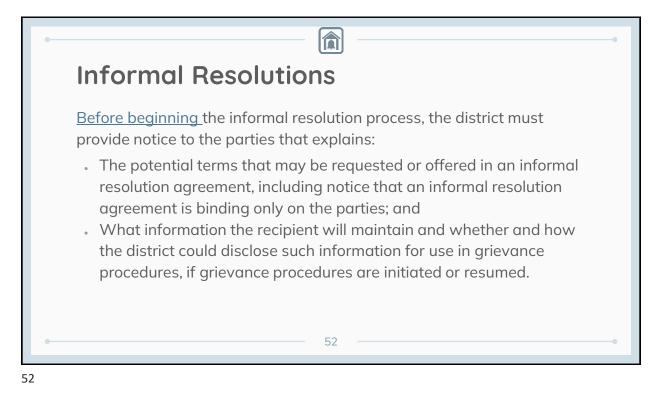
Timelines
 <u>There are no strict timelines</u>: the grievance procedure must outline "reasonably prompt timeframes, as well as allow reasonable extensions of such timeframes for god cause." These reasonably prompt timeframes must apply to: Evaluation Investigation Determination Appeal
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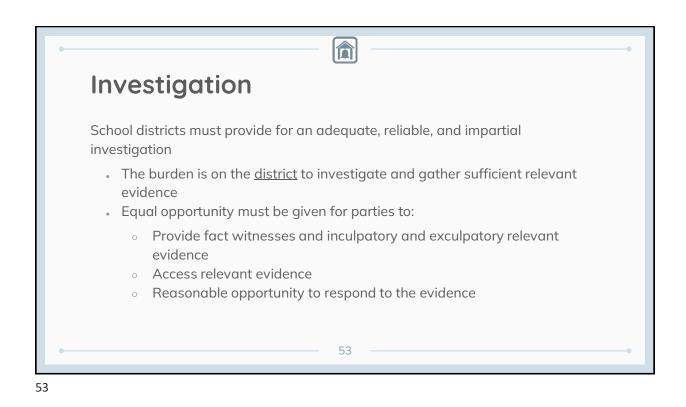










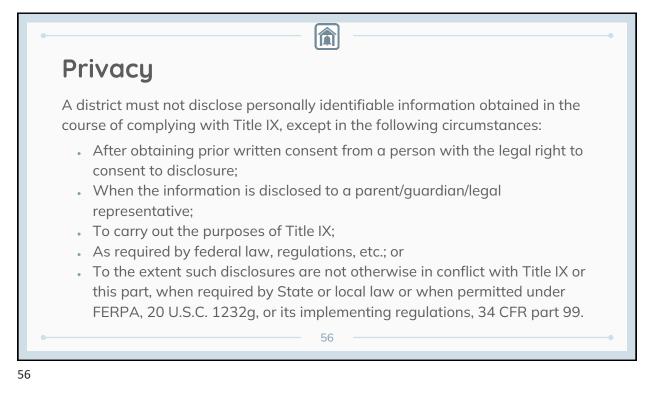


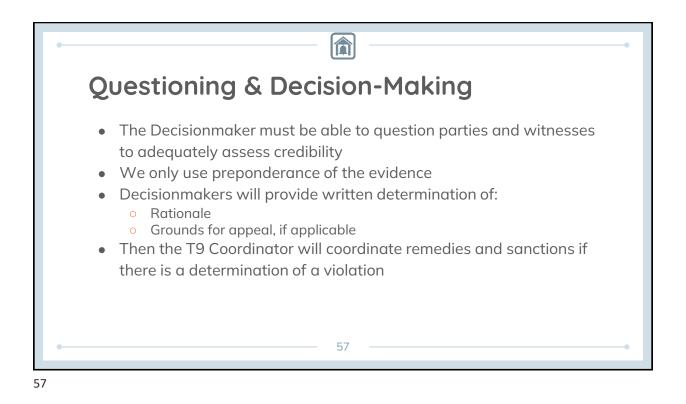


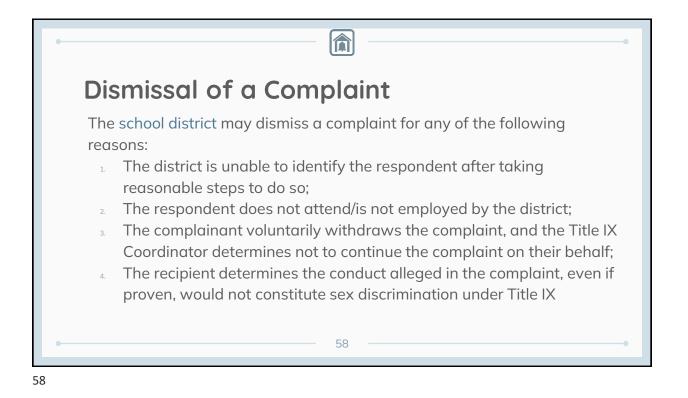
Confidentiality

"A [school district] must take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the grievance procedures."

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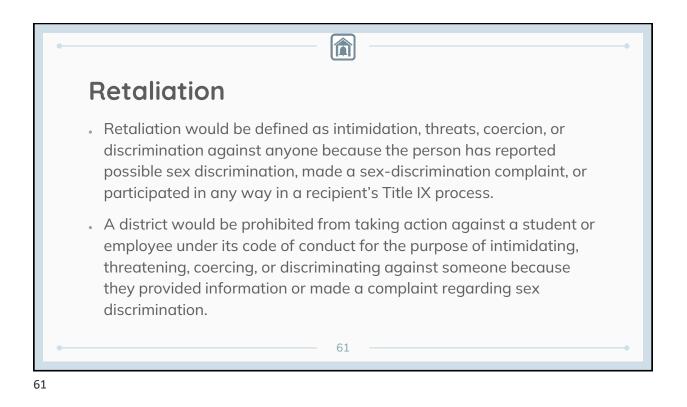


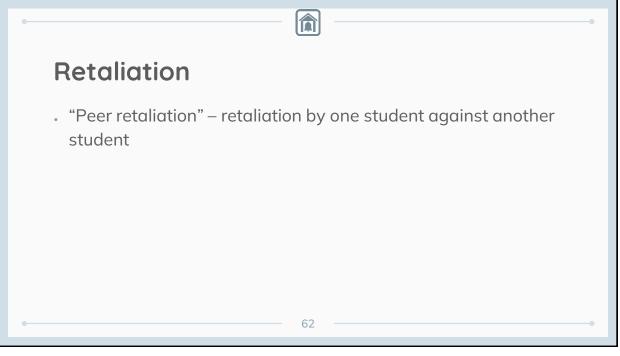


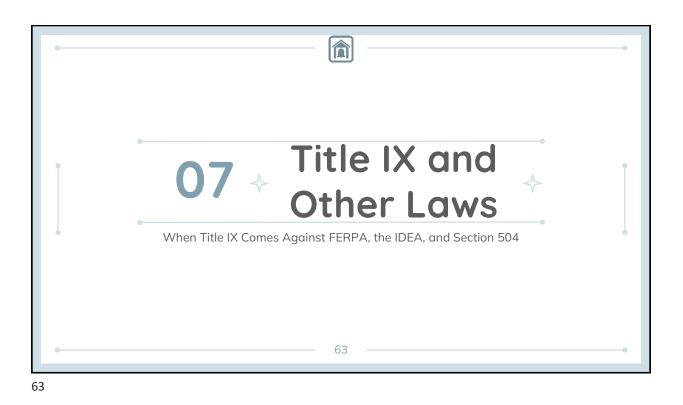


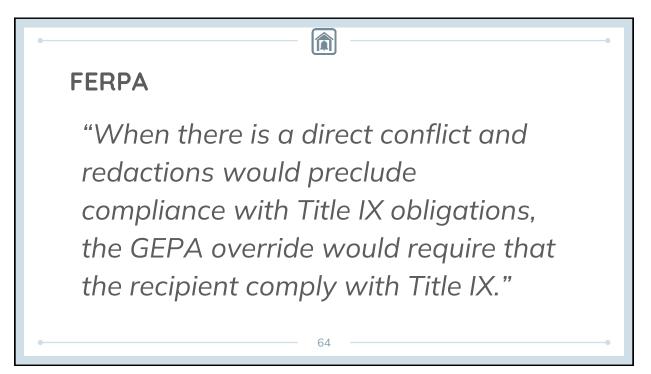


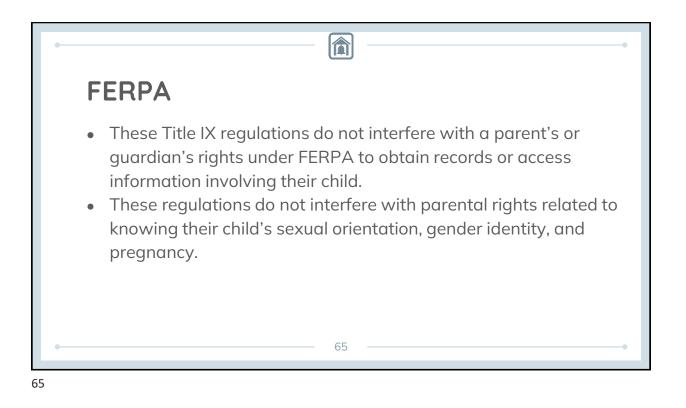












FERPA

• Under FERPA, "a parent (or eligible student) has a right to inspect and review any witness statement that is directly related to the student, even if that statement contains information that is also directly related to another student, if the information cannot be segregated and redacted without destroying its meaning." U.S. Dep't of Educ., Office of Planning, Evaluation, and Policy Development, Final Regulations, Family Educational Rights and Privacy, 73 FR 74806, 74832–33 (Dec. 9, 2008).

 In the context of Title IX grievance procedures, there is no direct conflict between Title IX and FERPA regarding the recipient's disclosure of information contained in one student's education records to another student to whom that information is also directly related.

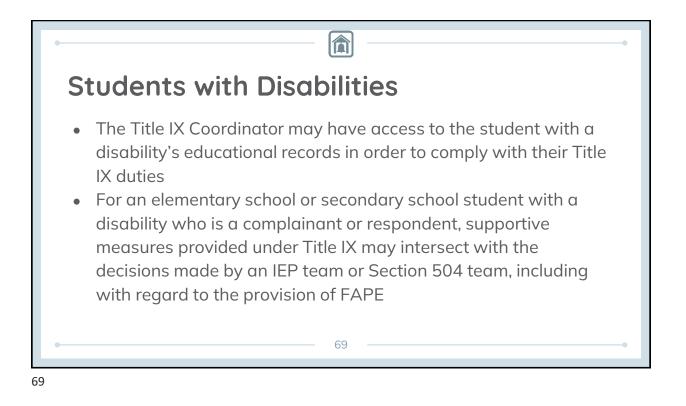
FERPA "FERPA does not override the due process rights of the parties, including, at minimum, the right to an explanation of the evidence and a meaningful opportunity to be heard." A recipient must redact (or otherwise refrain from disclosing) information that is impermissible; however, a recipient must not redact information or evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible because such redaction would infringe on the right of the parties to receive access to the relevant and not otherwise impermissible evidence, as well as on the parties' due process rights.

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Students with Disabilities

• If a party in a Title IX dispute is a K-12 student with a disability, the school district must require the Title IX Coordinator to consult with 1+ members of the student's IEP team to determine how to comply with the requirements of the IDEA and/or Section 504 throughout the implementation of the grievance procedure

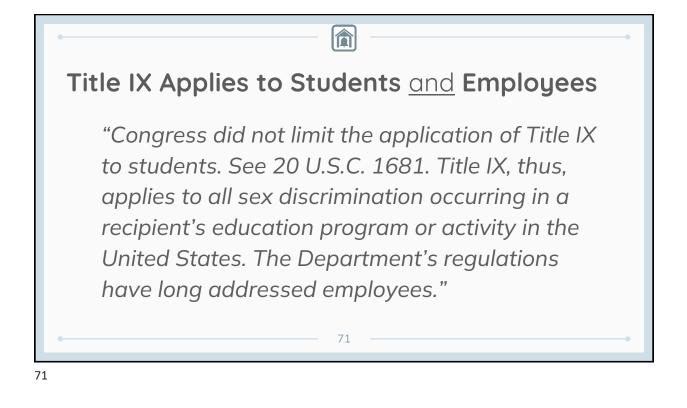
• The regulations do not require IEP or Section 504 meetings, do not mandate consultation with full IEP teams or Section 504 teams, do not identify particular individuals within the IEP team or Section 504 team that must be part of the consultation, and do not specify the decision-making process

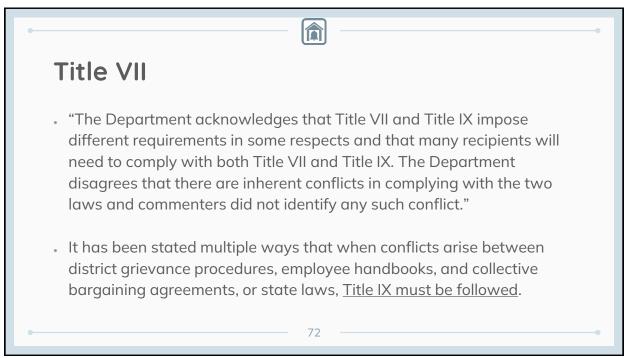


Emergency Removals

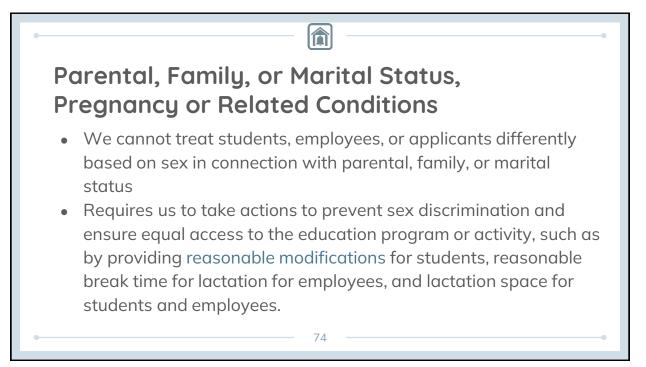
• Before a district may remove a student with a disability in compliance with Title IX, the district must undertake an individualized safety and risk analysis to determine whether an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal.

• The respondent must also be provided notice and an opportunity to challenge the decision immediately following the removal, and this provision must not be construed to modify any rights under the IDEA, Section 504, or the ADA.









We find out a student is pregnant. Now what? First, tell the Title IX Coordinator Title IX Coordinator will inform them of their rights related to pregnancy or pregnancy conditions Work with the student individually regarding if reasonable modifications must be made to aid in her education while she is pregnant. Allow her a voluntary leave of absence for, at minimum, the medically necessary time period and reinstatement upon return Post-birth we must provide her a clean, private lactation space

