Session Objectives

- Review Key Component from Prior Training
- Taking Title IX Complaints
- Steps to Initial Investigation
- Steps to Prevent Sexual Harassment
- Avoiding Common Mistakes
- TRUSD Ensuring Title IX Compliance
Questions are encouraged but please refrain from mentioning a specific situation or incident at your school.
Title IX

History and Overview
“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 education program or activity receiving Federal financial assistance.” -Education Amendments of 1972
Protected Classes

Age, Color, Disability, Ethnic or National Origin, FMLA, Gender, Race, Religion, Pregnancy, Gender Identity, Political Beliefs, Social Marital Status, Sexual Orientation, Linguist Preference, Retaliation, Social or Family Background, Filing a Complaint, Participating in a Complaint. GINA
What is Considered Sexual Harassment in Title IX?

VAWA “Big Four”

- Domestic Violence 34 U.S.C. 12291(a)(8)
- Dating Violence 34 U.S.C. 12291(a)(10)
- Stalking 34 U.S.C. 12291(a)(30)
What is Title IX Sexual Harassment?

Unwelcomed Conduct determined by a reasonable person to be...

- Severe
- Pervasive
- Objectively Offensive

That if effectively denies a participant's equal access to an educational program or activity.
What is Considered Sexual Harassment in Title IX?

Quid Pro Quo

Applies to employees

A district employee conditioning the provision a district aide, benefit or service on a person’s participation in unwelcome sexual conduct
What is covered in Title IX

- Discipline and Retaliation
- Athletics and Financial Aide
- Recruitment Admissions and Counseling
- Sex Based Harassment And Single-Sex Education
- Sing-Sex Education
- Treatment of Pregnant and Parenting Students
- Employment
What is Actual Knowledge?

Actual Knowledge is defined as...

• Notice of sexual harassment or allegations of sexual harassment to a District’s Title IX Coordinator or any official of the district who has the authority to institute corrective measures on behalf of the recipient or to any employee of an elementary or secondary school.

• Once a school receives notice, it must respond and take action whether a formal complaint is filed or not.

• *A person with authority is defined as any school employee.
For the purpose of this AR, Section 261.6 of the California Penal Code defines consent as “positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 287, or 289, or former Section 288a.”

A voluntary expression of willingness, permission, or agreement to engage in sexual activity throughout a sexual encounter. Consent cannot be granted by an individual: who is less than the statutory age of consent under California law, has a mental or physical condition or incapacity that prevents the giving of consent; or from whom ostensible “consent” is extracted through threat, coercion, or forcible compulsion.
How is an Educational Program Defined?

• Locations, events, or circumstances where the district has substantial control over both respondent(s) and the context in which alleged Title IX Sexual Harassment occurred.

• *If an incident impedes a person’s ability to access their educational program it could fall under Title IX.
All Other Situations related to Sexual Harassment not covered under Title IX

- For situations that may not meet Title IX definitions, sites will be able to proceed under the District’s regular sexual harassment Board Policy and Area Regulation.

Students
BP/AR 5145.7

Staff:
BP/AR 4119.11/4219.11/4319.11
2020 Changes to Title IX Process
No single Investigator

No longer allowed to implement punitive measures or consequences until Title IX process is finalized.

Changes to Title IX Process

Emergency Removals

Open Process where all investigative evidence is shared with both parties.
Site Based Guidance for Sexual Harassment Claims
While the school site will not be responsible for the Title IX Investigation, there are still initial pieces the site will need to gather and provide
Steps to An Investigation

Identify Parties
Who is the Complainant(s)?
Who is the Respondent(s)?
Are there potential witnesses?

Obtain Statements
Whenever possible have students write statements. Read them thoroughly and ask clarifying questions so students can clarify on their statements before leaving.

Gather Evidence
Is there video evidence? If so get camera #s and locations and immediately pull footage and email camera #s, times, and locations to Katrina

File a Police Report
Contact TRPD. Get Report or Incident #. Document that # in your records and in Aeries.

Contact CPS
Contact CPS. Note dates of contact, time of contact and Name and Badge # of person taking the report. In addition, please complete online form and print before submitting.

Call Katrina
Contact Title IX Coordinator
Important Considerations when Gathering Information

- Collect ages of students involved
- Best Practice is to print demographics of all involved and include role.
- Is the current allegation leading to issues with inclusivity or hostile environment?
- Is there a concern regarding immediate harm to others?
- Do not tell students/families it is Title IX unless that has been identified by Title IX Coordinator.
- Never interview students together or allow students to write statements in the same space.
- Never interview an employee if they are the person the allegations are against.
- Identify if any students are members of protected groups.
- Does the potential respondent have a pattern of behavior or is this a one time event of incident?
Approaches When Talking to Complainants and Respondents

- Listen
- Be Present
- Avoid Judgement
- Avoid statements about possible outcomes
Important to Work Promptly with Intentionality

- Remember once we have actual knowledge we have been placed on notice and need to act
- Maintaining a sense of urgency
- Working quickly is key!
Confidentiality Is Key
Do Not Share Information with others
Being Free From Bias

- Refrain from making comments or judgements
- If there is a conflict of interest identify a person to support with initial information gathering
- Do not make statements about other students
- Do not comment on if something looked consensual
- Do not use body language demeanor that could be perceived to be biased.
- You can show empathy and still be free of bias.
Common Mistakes

- Information should not be shared with site staff who do not need to know.
- Video Evidence should only be viewed by the administrative team and law enforcement.
- Do not make comments about your perception of if it was
- Telling families something is Title IX before it is confirmed to be Title IX.
- Identify If parents need to be contacted or not. When in doubt call Katrina!
Understanding the Process
Intake Meetings and Formal Complaints

- Once an allegation is reported that could fall under Title IX, the Title IX Coordinator will arrange for an intake meeting with Complainant.
- Complainant will be provided with an overview of the Title IX Process.
- They can choose to proceed with Title IX or Decline it.
- In some situations the Title IX Coordinator can sign a formal complaint on their behalf.
Written Notice of Allegations

• Sent to parties simultaneously as well as to parents
• Notice of allegations includes the specifics of the allegation
• Notice of applicable board policies and area regulations
• Notifies parties of their rights in the process including their right to have an advisor
• Identifies the investigator(s), decision makers and appeals officer
• Notes the anti-retaliation policies listed
• Standard of proof is stated
• *This was a change in process since 2020
Emergency Removal Process

- A health and safety assessment is completed to identify if there is a health or safety risk.
- The Principal makes the determination.
- A notice of Emergency removal is sent out to the Respondent(s) and their parent/guardians.
- The board is notified.
- The removal is from in person programs.
- The student is placed in an appropriate educational program.
Balancing Federal Laws

- If a respondent is being placed on an emergency removal a manifest determination must be held.
- The manifest is required as part of the Title IX process
- It is not disciplinary
An assigned investigator will collect evidence, interview parties and witnesses and compile an investigative file and summary.

Supportive Measures
Supportive measures can be offered at any point in the process.

Informal Resolution
Informal Resolution can be requested at any point in a process. The process can be initiated at any point in the process and if the agreement is not agreed upon by both parties, the process proceeds.

Title IX Process

Investigation

An assigned investigator will collect evidence, interview parties and witnesses and compile an investigative file and summary.

Decision

Makes a determination if a Title IX violation has occurred. The standard is identified as a preponderance of the evidence.

Appeal

Either party can choose to submit an appeal for the decision and the evidence is then provided to an appeals officer to make a determination.
Bias and Conflicts of Interest

✔ Members of the Title IX team must ensure the process is free from bias and conflicts of interest.

✔ If a member of the Title IX team thinks there may be a conflict of interest it should be brought to the Title IX Coordinator.

✔ NOA allows parties to see who has been assigned so if a conflict arises they are able to make notifications to the Title IX Coordinator.
Standard for Decision Making

Preponderance of the Evidence
Steps to Create an Environment Free of Sexual Harassment
• Walk your campus and identify any areas that could be a potential risk (hidden inlets, unlocked isolated areas, stairwells accessible without supervision).
• Ensure a clear supervision plan for your campus.
• Review Sexual Harassment Policies with staff on a regular basis and create a culture where professional boundaries are expected.
• Establish age appropriate assemblies or protocols for talking to students about sexual harassment and how to report it.
• Post sexual harassment policies and processes for reporting.
• Know what questions to ask and have a clearly outlined investigative plan and process in place.
• Be visible and observant on your campuses
• Training staff in investigative processes and ensuring everyone knows the process.
Posting Requirements

• There are posting requirements for both Sexual Harassment and Uniform Complaint Procedures.

• We are putting together posters and will send them to sites with instructions on where to post.
Who to Call?
Who to Call?

<table>
<thead>
<tr>
<th>Rudy</th>
<th>Katrina</th>
<th>Jordan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discipline and Bullying</td>
<td>Title IX</td>
<td>Any staff member involved incident</td>
</tr>
<tr>
<td>Uniform Complaint Procedures</td>
<td>Discrimination Based Incidents</td>
<td></td>
</tr>
</tbody>
</table>
Steps TRUSD has Taken to Ensure Compliance with Title IX

1. Policy Review
2. Identified Roles and a Title IX Team
3. Provided Training
4. Preventative measures through awareness and education
Additional Resources

200-262.4 Prohibition of discrimination on the basis of sex
48900 Grounds for suspension or expulsion
48900.2 Additional grounds for suspension or expulsion; sexual harassment
48985 Notices, report, statements and records in primary language
CIVIL CODE
51.9 Liability for sexual harassment; business, service and professional relationships
1714.1 Liability of parents/guardians for willful misconduct of minor
GOVERNMENT CODE
12950.1 Sexual harassment training
CODE OF REGULATIONS, TITLE 5
4600-4670 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs
UNITED STATES CODE, TITLE 20
1092 Definition of sexual assault
1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX of the Education Amendments of 1972
UNITED STATES CODE, TITLE 34
12291 Definition of dating violence, domestic violence, and stalking
UNITED STATES CODE, TITLE 42
1983 Civil action for deprivation of rights
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy
106.1-106.82 Nondiscrimination on the basis of sex in education programs
QUESTIONS