

Title IX Overview: Some Basics



Granite School District,
2500 South State Street
Salt Lake City, UT 84115

Auditorium D & E

8:00 AM – 3:00 PM

October 25, 2018

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Western Educational Equity
Assistance Center

Holly Bell

Utah State Office of Education

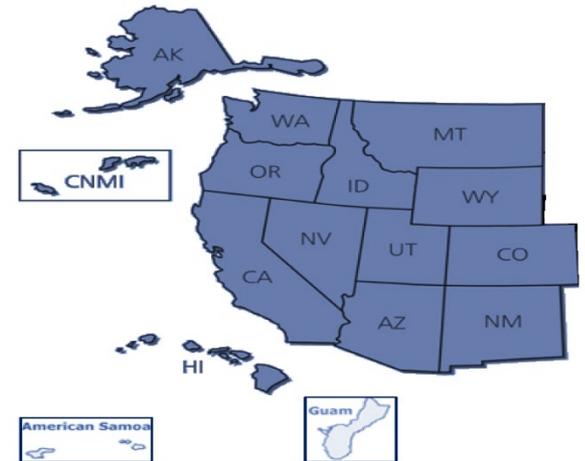
Holly Bell

Title IX Coordinator



Introductions & Icebreaker

What is the WEEAC?



- One of 4 equity assistance centers in the country.
- Serves 13 states and 3 Us territories.
- Works with K-12 schools, school districts, and state education departments on request.
- Provides training and technical assistance on educational issues related to race, sex, national origin, and religion.
- Deals with Title IX and recent emphasis on the prevention of bullying and harassment in schools.

Workshop Norms & Guidelines

- Stay Engaged
- Please turn cell phones off or set to vibrate
- We are all learners
- Presume positive intentions
- Some topics may be emotional and/or triggering for some; share only what you feel comfortable sharing
- What is shared here stays here, what is learned here...leaves here

What other norms should we have?

Session Goals

- ❑ To provide an **overview** of Title IX
- ❑ To provide an **overview** of Sexual Harassment
- ❑ To provide **practical examples** to help with context, discussion, and authenticity

Goals



1. _____

2. _____

3. _____

What Do You Want to Know About Title IX?

On the sticky note write what you
want to know?

Or questions you may want
answered.

Then place your note
on the chart paper



Title IX Law works best when..... (Fill In the blanks)



Title IX Quotient: Continued

6. A school's failure to treat students consistent with their gender identity may create or contribute to a hostile environment in violation of Title IX

Yes

No

Not Sure

7. School districts do not have to provide individual user options for restrooms or locker changing facilities for transgender students.

True

False

8. When a student complains to a counselor about an incident of sexual harassment and the counselor replies that there is nothing he/she can do.

Legal

Illegal

Not Sure

9. The harassment of students based on gender identity can be tried as a sexual harassment case under Title IX.

A. True

B. False

10. Who is your Title IX Coordinator? _____

LET'S START WITH SOME IMPORTANT Questions & answers

Are all school districts, colleges, and universities covered by Title IX?

- Virtually all public school districts are covered by Title IX because they receive some federal financial assistance and operate education programs.

Are all programs in a school or college covered if it receives federal financial assistance?

- Generally, all programs in a school or college are covered if the school or college receives federal financial assistance.

Does Title IX protect only students?

- No, Title IX protects all participants in the program from discrimination, including parents, students, and employees.

Are schools responsible for addressing sexual harassment?

- Yes, when schools become aware that sexual harassment is severe, persistent or pervasive, they must take effective actions.

Title IX The Law



Title IX – 37 Important Words

"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 – IS The Law

- ❑ Federal Civil Rights law 1972
- ❑ Compliance by 1978
ANY Federally funded education programs and activities
- ❑ Prohibits discrimination on basis of sex
- ❑ Includes sexual harassment & sexual violence

Included in that protection are staff and students in:

- ✓ Local Public School Districts
- ✓ State Departments of Education
- ✓ Charter Schools
- ✓ Magnet Schools
- ✓ Vocational Schools
- ✓ Technical Schools



Included in that protection are staff and students in:

- ✓ Colleges and Universities
- ✓ For-profit Schools
- ✓ Libraries
- ✓ Museums
- ✓ All education programs of the Cabinet Departments of U.S. Government, i.e. Department of Energy



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Title IX What the Law Covers



Title IX – What the Law Covers

K-12 & Higher Education

- Admissions
- Financial Assistance
- Student Housing
- Employment Practices
- Counseling
- Access to Courses/ Programs
- Pregnant / Parenting Students
- Athletics
- Student Rules and Policies
- Sexual Harassment & Violence

Title IX – Counseling

- ❑ Conducted in a and non-biased manner
- ❑ Students are not guided into “traditional” areas of study for their sex or gender



Title IX – Access to Courses or Programs

❑ No single-sex classes, EXCEPT:

❑ Phys. Ed. when “purpose of major activity involves bodily contact (e.g. wrestling)”

❑ Exclusively deals with human sexuality

❑ Choir when based on range and quality of voice



Title IX – Pregnant/Parenting Students

- ❑ Schools must give all students who might be, are, or have been pregnant the same access to school programs and educational opportunities that other students have



Title IX – Pregnant/Parenting Students

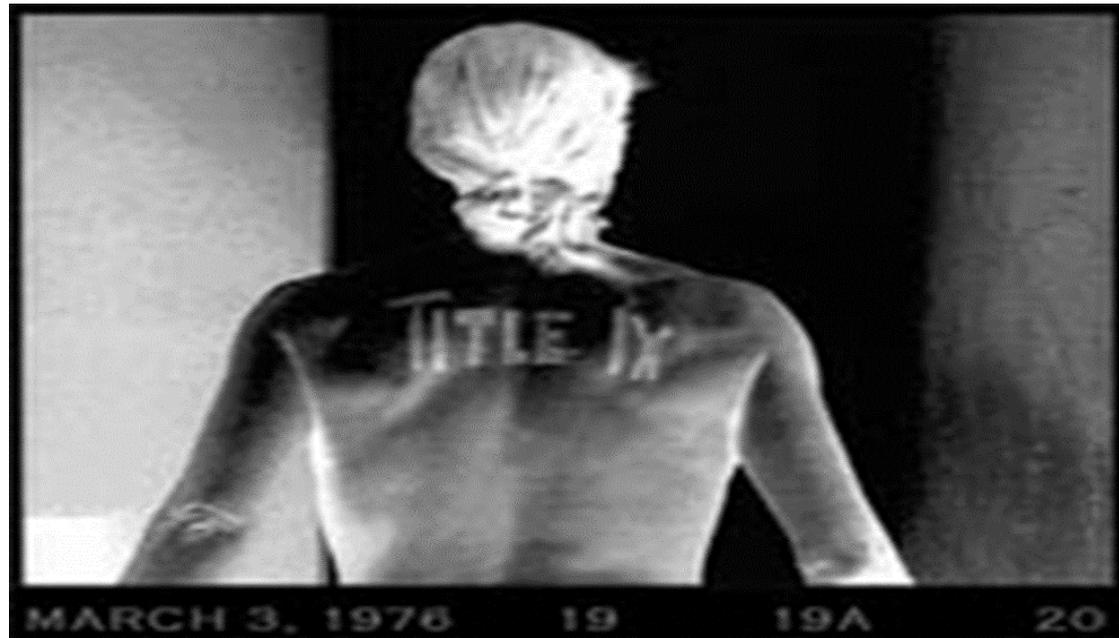
- No forced-placement of alternative educational settings
- Access to same curricula and programs
 - No “Math for Moms”
- Treated as short-term disability with all rights granted to students with any other illness or injury
 - Attendance exception

Title IX – Let's Look at Athletics

- Is it a sport?**
- Three-prong test**
- Laundry list of Equitable Benefits**



Title IX Athletics



https://video.search.yahoo.com/yhs/search?fr=yhs-pty-pty_email&hsimp=yhs-pty_email&hspart=pty&p=youtube+hero+for+daisy#id=3&vid=785e9a2adaae31eae23b84ce9643307a&action=click

Title IX – Athletics: Is it a Sport?

- ❑ Is selection for the team based upon objective factors related primarily to athletic ability?
- ❑ Defined season?
- ❑ Does the team prepare for and engage in competition the same way as other teams in the athletic program?
- ❑ Is the activity administered by the athletic department?
- ❑ Is the purpose of the activity athletic competition rather than support or promotion of other athletes?

Title IX – Athletics: Is it a sport?

- ❑ Do state, national, and conference championships exist for the activity?
- ❑ Is a state, national, or conference rule book or manual book adopted for the activity?
- ❑ Are there state, national, or conference regulation of competition officials along with standardized criteria upon which the competition may be judged; and
- ❑ Are participants in the activity/sport eligible to receive scholarships and athletic awards?

Title IX – Athletics: 3-Prong Test

Does the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes?

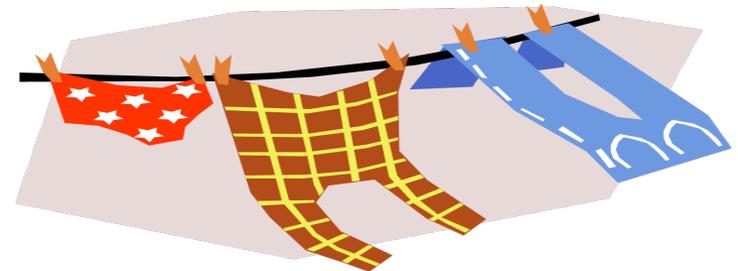


Title IX – Athletics: 3-Prong Test

***Refer to The Athletics “Laundry List” of other requirements/considerations in your packets**

Must meet **ONE**:

1. Proportionality
2. History/Continuing Expansion
3. Full & Effective Accommodation of Interests & Abilities



Title IX – Rules, Policies, & Discipline

- Look at patterns (classrooms, recess, referrals, detentions, suspensions, expulsions)
- Cannot discipline based on gender identity or failing to conform to stereotypical notions of masculinity or femininity in behavior or appearance (actual or perceived)
- Dress code?



Requirements of Title IX

- Self-Evaluation
- Development of Policy
- Notification of Policy
- Appointment of Responsible Person(s)
- Grievance Procedure



Title IX Grievance Policies & Procedures



What is a Grievance?

- **An assertion or claim that a set of rules or regulations have not been followed. These may be:**
 - Local**
 - State**
 - Federal law or regulation**
 - Contractual agreement**



Grievance Procedures **MUST** Address

Sex Discrimination

- **Being treated differently, or unable to access educational programs and facilities because of your sex**

Unwanted!

Sexual Harassment

- **Unwanted, unwelcomed, and unsolicited advances of a sexual nature; it interferes with a person's ability to access work or school facilities and programs, it is a form of sex discrimination**

One Grievance Procedure Can Cover Many:

- Sex (Title IX)
- Race (Title VI/VII)
- National Origin
- Disability
- Age
- Harassment (race, gender, national origin, disability)
- Sexual Orientation



Title IX Grievance Policies & Procedures

- Clear & well-publicized**
 - How, where, and with whom to file a complaint**
 - Investigative & decision-making process**
 - Possible penalties**
 - How to appeal**
 - Complaints must be investigated promptly, thoroughly, and fairly**
 - You must be mindful of conflicts of interest and confidentiality**
- IMPORTANT!**
Mediation is **NEVER** appropriate with sexual assault!

Now, Let's Look at THE Components OF Grievance Procedures

- Initiation and filing of grievances
- Processing of grievances
- Basic procedural rights

Grievance Procedures: Initiation of a Grievance or Complaint

*** Refer to sample grievance form**

- Who may grieve
- What constitutes a grievance
- Time Limits
- How the grievance shall be initiated
- Assistance available to grievant
- Number and level of steps
- Form of processing
- Requirements of notification
- Timelines
- Procedures for meetings or hearings
- Requirements for filing
- Role(s) of those involved



Grievance Procedures

Basic Procedural Rights

- Prompt and equitable**
- Timelines**
- Right to Representation**
- Access to records**
- Impartial decision makers**
- Right to appeal**
- Confidentiality**
- Protection from harassment and retaliation**

School Must be Proactive During the Investigation

- ❑ Right to remain in same school, classes, clubs, and on teams**
- ❑ All educational programs and opportunities must be available**
- ❑ Reasonable accommodations**

Empathy

Consistency

Check & Acknowledge Bias

NON-COMPLIANCE

- A recipient is **NOT** in compliance with the requirements of Title IX if you do not have *both a policy and a grievance procedure* in place, regardless of whether or not discrimination has occurred
- We cannot stress the importance of having both up-to-date grievance procedures and policies of non-discrimination. Both of these must be **widely publicized** to students, parents, and employees--and in a manner and language they can understand



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Retaliation





Retaliation

"[n]o recipient or other person shall intimidate, threaten, coerce, or discriminate [through any means] against any individual for the purpose of interfering with any right or privilege secured by [Title VI] , or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing"

-U.S. Department of Justice



Title IX Coordinator

Mitch Nutterfield

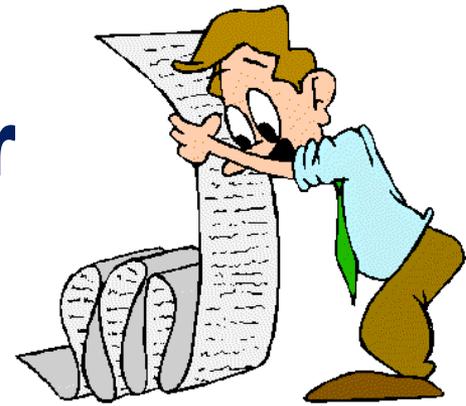
Role Responsibilities



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School District Number 1

612 Park St.
Trinidad, CO 81082
Ph: (719) 846-3324
Fax: (719) 846-2957

Title IX Coordinator

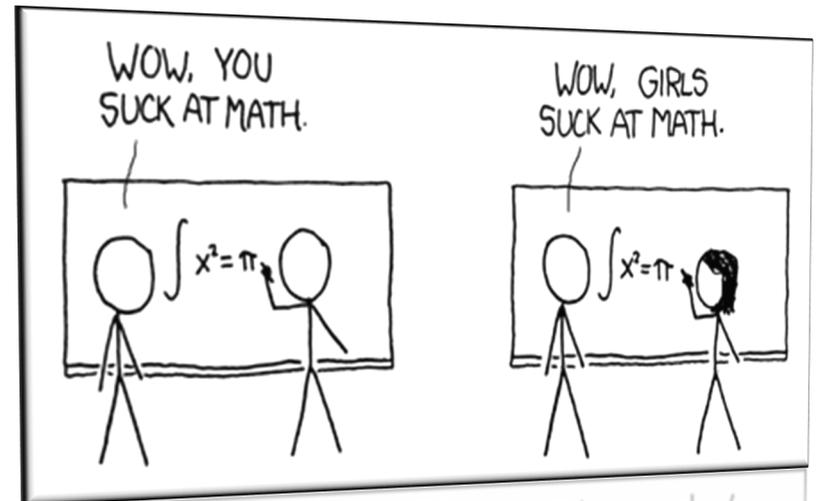


- ⑨ **One employee must be designated by the school or the district**
- ⑨ **Contact information must be prominently posted on websites and student/parent handbooks**

Hi- My name is Mitch. I am the Title IX Coordinator for the District!

Role of the Title IX Coordinator

- **Preventive**
- **Eliminating Bias**
- **Promotional**
- **Sustain an on-going Process**



Not Just at School or During School Hours



Not Just at School or During School Hours

Title IX law...

- ❑ Must be addressed for occurrences on buses, field trips, and extra-curricular activities (e.g., “away” sporting events, etc.)
- ❑ INCLUDES ONLINE HARASSMENT

S T O P
cyberbullying

Title IX applies to online sexual harassment



- If you can see how actions on social media could lead to substantial disruption at school, then you must respond.
- Ask: What is our policy on the use of social media on and off school property?
- What would we do if we are aware of online harassment, or if it is brought to our attention?

Training

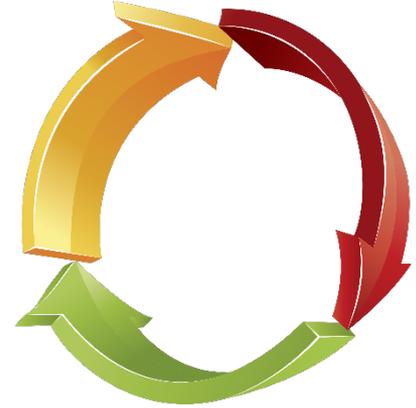
- Training on reporting sexual harassment and sexual violence should include
 - Students
 - Age appropriate, in **understandable language**
 - Teachers
 - Coaches
 - Administrators
 - Counselors/Social Workers/Psychologists
 - Health Professionals
 - Parents
 - In **understandable** language

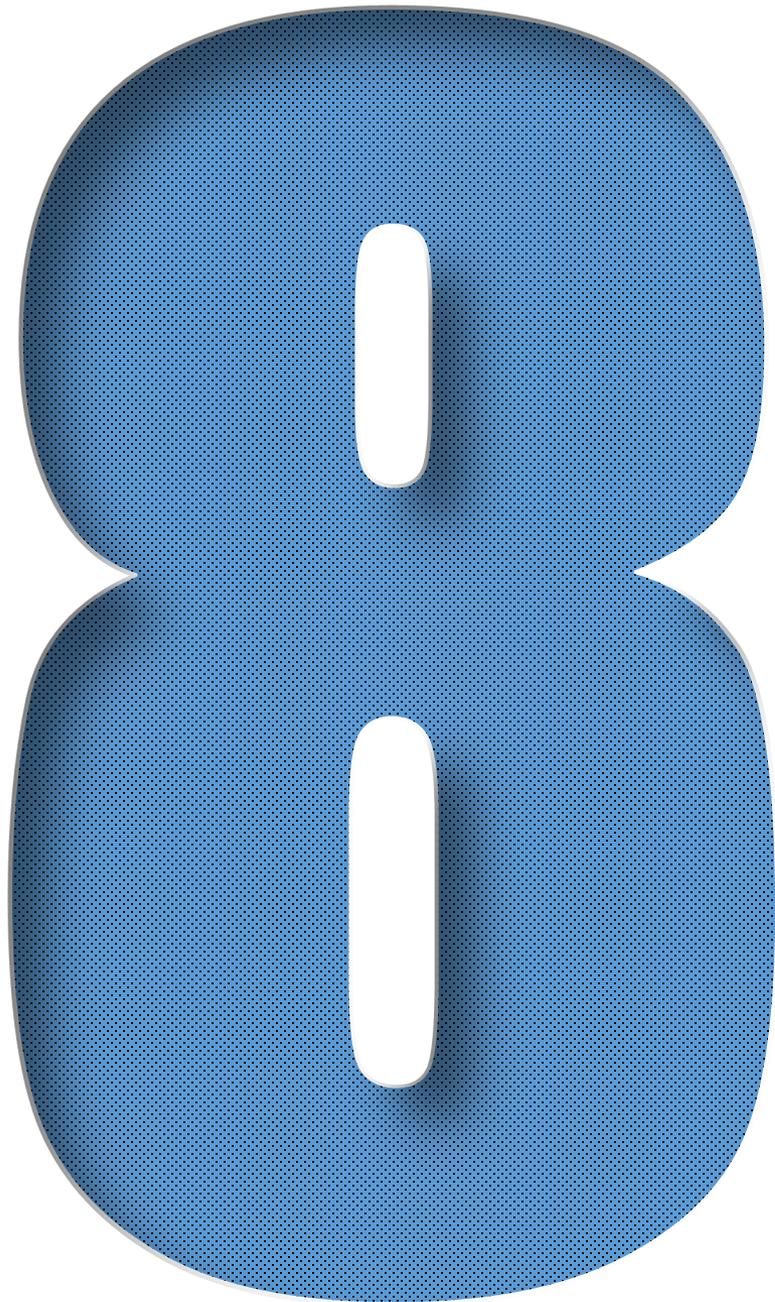
INCLUSIVITY

Training

Can include:

- What is Title IX?
- What is sexual violence?
- What does consent mean?
- How to file a grievance
- Reporting options
- Bystander intervention





Sexual Harassment



So...What do you know about Title IX & Sexual harassment?

- _____ out of 10 students experience some form of harassment
- Which gender is more likely to experience sexual harassment?
- Which gender is more likely to state they do not want to come to school because of sexual harassment?
- What does typical sexual harassment look like?



Sexual harassment in schools is commonplace for both girls and boys

(Titleix.info)

- **Eight in 10** students experience some form of harassment and more than 25% of them experience it often
- **Girls** are more likely than boys to experience sexual harassment (56% versus 40%)
- **Girls are more likely than boys** to say that sexual harassment caused them to not want to go to school, change the way they go home from school, and have trouble sleeping
- **Typical sexual harassment complaints:** making sexual comments, jokes, gestures, or looks; claiming that a person is gay or lesbian; spreading sexual rumors about a person; touching, grabbing or pinching someone in a sexual way; intentionally brushing up against someone in a sexual way; and flashing or "mooning" someone, using technology to intimidate, bully, or harass.....

Title IX – Sexual Harassment & Violence

Sexual harassment is **unwanted** and **unwelcomed** behavior of a sexual nature which interferes with an individual's right to learn, study, work, achieve, or participate in school activities...

Title IX – Sexual Harassment & Violence

Two Types:

- ❑ **Quid Pro Quo (A favor/advantage granted in exchange for something):**
 - ❑ Something given or withheld for something else—sexual bribery
- ❑ **Hostile Environment:**
 - ❑ An environment which interferes with a person's ability to function normally without intimidation, fear, or sexually harassing behaviors

Flirting or Sexual Harassment

Group # 1

List the behaviors commonly associated with flirting.

Group # 2

List the behaviors commonly associated with sexual harassment.

Group # 3

List the feelings commonly associated with flirting.

Group # 4

List the feelings commonly associated with sexual harassment.

Title IX – Sexual Harassment & Violence

"The more you act like a lady, the more he'll act like a gentleman."

(A Houston School is under fire for this statement)! Why?

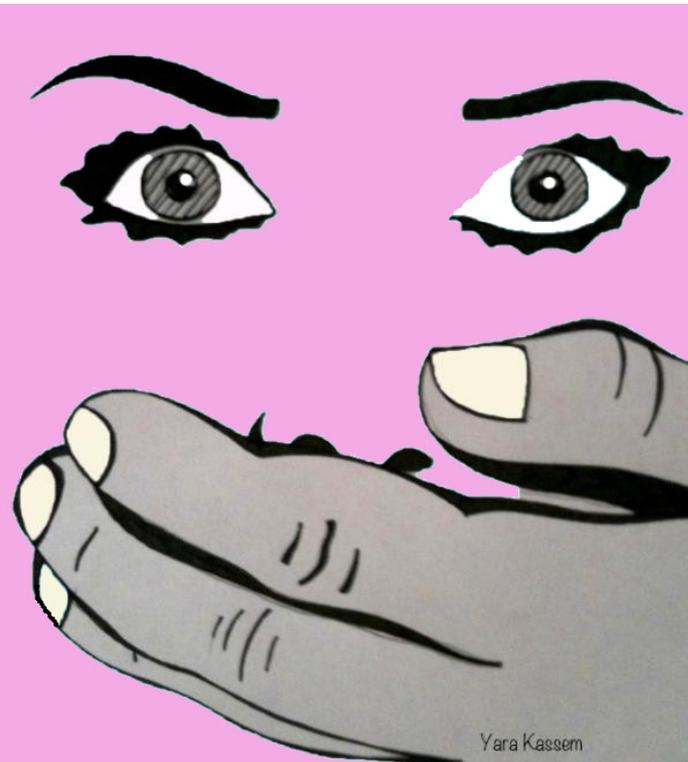
**Sexual Harassment
& Violence**

Is not about

Sexual Attraction

It Is About

**POWER &
CONTROL!**



Title IX – Sexual Harassment & Violence

Sexual Harassment Versus Inappropriate Behavior

- 1. Is the conduct sexual in nature or is it gender based?
- 2. Is the conduct unwelcome or unwanted?
- 3. Is the conduct severe, persistent, pervasive?
- 4. Does the conduct unreasonably interfere with work or school?
- 5. What evidence is there for unreasonable interference?

Title IX – Sexual Harassment & Violence

I'M NOT A
DOG, DON'T
WHISTLE AT
ME.

Examples

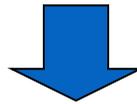
- Unwelcome sexual advances
- Suggestive or lewd remarks
- Unwanted hugs, touches or kisses
- Requests for sexual favors
- Cyberposting & bullying
- Retaliation for complaining about sexual harassment
- Derogatory or pornographic posters, cartoons, or drawings
- Gossip

Title IX – Sexual Harassment & Violence



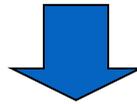
INTENT

(CONSCIOUS OR UNCONSCIOUS)



BEHAVIOR OR ACT

(VISUAL, VERBAL, OR PHYSICAL)



SUBJECTIVE RESPONSE

(THE EYE OF THE BEHOLDER)



Title IX – Sexual Harassment & Violence

Student to Student

Male to Female

Adult to Student

Female to Male

Student to Adult

Male to Male

Adult to Adult

Female to Female

And

AND....Any other way an individual may identify...





Gender Non- Conforming Identities and Title IX

Title IX applies to Gender Non-conforming Identities

- Learning about gender and sexual diversity is for everyone
- Create a welcoming environment for all
- <http://aqueerendeavor.org/for-educators/>

THE UNHEALTHY IMPACT OF BULLYING ON LGBT YOUTH

#SPIRITDAY

80% OF TRANS STUDENTS REPORTED FEELING UNSAFE AT SCHOOL BECAUSE OF THEIR GENDER EXPRESSION.

FENWAY  HEALTH FENWAYHEALTH.ORG

The infographic features a purple background with a white diagonal banner in the top right corner containing the text '#SPIRITDAY'. The main title is in white, bold, uppercase letters. Below the title is a yellow transgender symbol (a circle with a cross at the bottom, a triangle at the top right, and a combined cross and triangle at the top left) overlaid with a pie chart. The pie chart is divided into a large yellow section (representing 80%) and a smaller blue section. To the right of the symbol, the statistic '80% OF TRANS STUDENTS REPORTED FEELING UNSAFE AT SCHOOL BECAUSE OF THEIR GENDER EXPRESSION.' is written in white, bold, uppercase letters. At the bottom, the Fenway Health logo and website URL 'FENWAYHEALTH.ORG' are displayed in white.

*Especially at K-12

- Mandatory Reporting Laws for Child Abuse & Neglect
- Bullying is a major issue

THE UNHEALTHY IMPACT OF ON BULLYING LGBT YOUTH

#SPIRITDAY

71.3%
OF STUDENTS

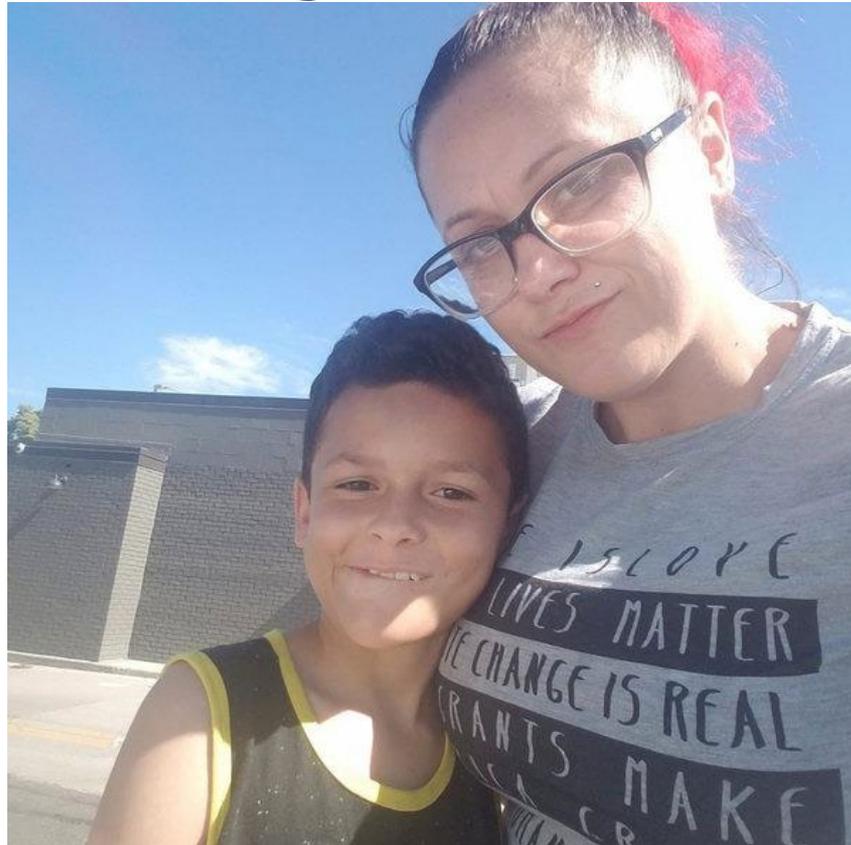
HEAR HOMOPHOBIC REMARKS LIKE **DYKE** OR **FAGGOT** OFTEN OR FREQUENTLY.

FENWAY  HEALTH FENWAYHEALTH.ORG

The infographic features a dark purple background with white and yellow text. A white speech bubble contains the statistic '71.3% OF STUDENTS'. A diagonal banner in the top right corner contains the hashtag '#SPIRITDAY'. The Fenway Health logo is located at the bottom center, and the website 'FENWAYHEALTH.ORG' is at the bottom right.

9-Year-Old Boy Killed Himself After Being Bullied... His Mom Says

Leia Pierce
& Late Son,
Jamel Myles,
Age 9



“Over the summer, Jamel told his mother he was gay. Now, she is angry at the school, which she believes should have done more to stop the taunts and insults.” (Denver Post)

Overlays: when several Layers involving title IX Law (And Other Laws) are prevalent



Andraya & Terry

https://youtu.be/sHqiG_hrbsc

Andraya and Terry Track Athletes

- <https://abcnews.go.com/GMA/News/transgender-athletes-speak-parents-petition-change-policy-compete/story?id=56071191>



What are the behaviors of allies to prevent sexual harassment & bullying?

- At your tables, please come up with 3-4 examples of allyship (think actions, verbal, non-verbal, images, responsibility, etc)



The originator of the #MeToo Movement Tarana Burke



Age-appropriate Training

Youth

Topics include:

- Title IX
- Sexual violence
- Consent
- Grievance procedures
- Reporting options
- Bystander intervention

Adults

Topics include:

- All items in Youth Category..PLUS..

Can Include:

- Collaborative Partners
- Community
- Board Members
- Families

Who Else?

#MeTooK12

“These entitlement behaviors [and] the normalization of sexual harassment starts in K-12, with the schools not really disciplining students and not really talking about it,” says Joel Levin, director of programs for Stop Sexual Assault in Schools (SSAIS)

#MeTooK12

- In a national survey of girls ages 14-18, 21 percent said they had been kissed or touched without their consent and 6 percent said they had been forced into sex, the National Women's Law Center (NWLC) [reported last year](#).
- There were at least 17,000 official reports of sexual assault by K-12 students against their peers between 2011 and 2015, a 2017 investigation by the Associated Press (AP) found. Data was not available from all states, and many cases go unreported. About 5 percent of the reports involved 5- to 6-year-olds.
- <https://www.csmonitor.com/EqualEd/2018/0118/MeTooK12-New-campaign-raises-awareness-about-rights-at-school>

#MeTooK12 in the Media

- The Epidemic of K-12 Sexual Harassment/Assault
- Sexual violence isn't just a college problem. It happens in K-12 schools, too. (Washington Post)
- Hidden horror of school sex assaults revealed by AP (Associated Press)
- African American girls share their #MeToo moments — at Oakland high schools (KALW-FM)
- The Secret of Sexual Assault in Schools (NEA Today) [Also appeared in the Spring 2018 print edition]
- Cherry Creek School District [Colorado] blasted for underreporting sex assaults (FOX31 TV)
- Middle-School Principal Gave Students 'Free Pass' to Rape Classmate, Lawsuit Claims (The Daily Beast)
- Kindergartners sexually abused classmate, took photos on school iPads, lawsuit says (mLive)

When Teen Dating Violence Comes to School

- Dating violence is the use of harassing, controlling, and/or abusive behavior to maintain power and control over a partner in a romantic relationship.
- Anyone can be a victim of dating violence, regardless of age, race, or gender.
- This is Sexual Harassment/Sexual Violence and is covered by Title IX.
- Responses:
 - Mandated reporter requirements
 - Stay-away agreements
 - Protection from Abuse or other Court Orders
 - Schedule changes
 - Counseling

Types of Cyberbullying

- Chat Rooms
- Internet Forums/Message boards
- Social networking sites
- Instant messaging
- Avatars
- Flame wars
- Internet Advertising
 - Redirected-Automatic linking
- Spam
- Pop-ups



Why Harassment and Discrimination are not reported

- Unaware of rights
- Humiliation
- Labeled a trouble maker
- Advised: Ignore it, it will go away
- Denial: You're over reacting
- Told they should be flattered by it
- Blamed for his or her behavior
- Being ostracized
- Reactions of girl friends/boyfriends
- Career damage
- Job Loss
- Peer Pressure
- **RETALIATION!**

Any other reasons?

Title IX – Sexual Harassment & Violence

School Officials Have....

- **A duty to protect**
- **A duty to investigate**
- **A duty to remedy**
- **A duty to monitor**



Individual Liability Exists If...

The student or employee proves

- That the Supervisor/School Officials maintained a practice, custom, or policy of **DELIBERATE INDIFFERENCE** or reckless disregard for known instances of harassment or abuse based on sex
- That the Supervisor/School Officials failed to take remedial action and failure to do so causes harm or injury
- **Including:**
 - Concealing complaints
 - Discouraging complaints or reports

Additional Considerations

Discipline & Other Disproportionality Considerations

- **Please refer to the Handout: Intersections of Implicit Bias, Race, Gender and Title IX**
- **Disproportionality: The over/under identification of a specific population in relationship to their proportion in the group**
 - **For instance: If your school is 50% Latino-but the students referred for disciplinary action are 85% Latino—that represents a disparity compared to their proportion in the school population!**

EQUITY

Share-n-Compare with a partner

- What did you learn today that you didn't know?
- What additional information do you need?



**Please fill out an Evaluation on
Paper (in your packets)
or on your phone through the QR
Code below**



Q&A

Thank You!

Holly Bell

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Some portions of this PowerPoint were created by Dan Cohen, Dr. Darlene Sampson, Dr. Nancy Hernandez and Dr. Jan Perry Evenstad

