

Title IX Investigative Process Overview & Notice of Rights

This overview sets forth the investigative, notification, and follow-up procedures and the rights of the parties for complaints of student-to-student, staff-to-student, and staff-to-staff sex discrimination covered by Title IX. The term “parties” refers to the complainant and respondent. The term “complainant” refers to the alleged victim, regardless of whether the victim reported the behavior; and the term “respondent” refers to the student or staff accused of engaging in sex discrimination. (Note: with respect to allegations of student-to-student sexual harassment, the school is also required to conduct a separate investigation in accordance with Chancellor’s Regulation A-831, Student-to-Student Sexual Harassment, in addition to this Title IX investigation. The type of behavior prohibited by Title IX and the procedures for conducting Title IX investigations may differ from the conduct prohibited by Chancellor’s Regulation A-831 and the required procedures for investigating such conduct.)

Where a student is a party in a complaint, any written notices or communications will be sent to the student’s parent unless the student is 18 years of age or older or is an emancipated minor.

The DOE Title IX Coordinator and Title IX investigators comprise the DOE’s Title IX team within the DOE Office of Equal Opportunity & Diversity Management.

1. In order to facilitate the prompt, thorough, and equitable resolution of complaints, all complaints must be filed as soon as possible and no later than one (1) year after the most recent alleged incident. Where there are extenuating circumstances, the Title IX investigator may investigate complaints filed more than one (1) year after the most recent alleged incident.
 - a. The Title IX Coordinator may initiate a complaint when they have notice of alleged conduct which, for example: suggests a potential pattern or risk of additional sex discrimination; and/or involved violent acts or threats of violence or retaliation; and/or presents an imminent or serious threat to the health and safety of the complainant or another person; and/or a power imbalance exists between the parties.
2. An investigation of the alleged conduct will be conducted by a Title IX investigator.
3. The investigation must be completed within a reasonable time frame of receipt of the complaint, absent extenuating circumstances.
4. The parties may have an advisor of their choice, who may or may not be an attorney, who may participate in any meetings or interviews to which the party is invited to attend. An advisor’s participation must be non-adversarial in nature.
 - a. For complaints involving a DOE or school staff member affiliated with a union, the staff member has the right to have a union representative participate in any meetings or interviews to which they are invited to attend.
5. While the investigation is ongoing, the parties/parents have the right to seek appropriate supportive measures. Parties/parents may also seek to modify supportive measures in place during the investigation if the supportive measures impose a burden or if circumstances change materially. Supportive measures may include:
 - a. referrals to medical services
 - b. guidance interventions

- c. referrals to Community-based agencies
- d. academic supports and adjustments
- e. development of an individual support plan
6. The respondent will be presumed not responsible for the alleged conduct until a determination is made at the conclusion of the investigation.
7. The complainant/parent has the right to request to withdraw the complaint at any time before the conclusion of the investigation.
8. The DOE may dismiss a Title IX complaint if: (i) the respondent cannot be identified; (ii) the respondent is no longer enrolled in a DOE school or employed by the DOE; (iii) the complainant/parent voluntarily withdraws some or all of the allegations in the complaint; or (iv) the alleged conduct in the complaint, even if proven, would not constitute prohibited conduct under Title IX..
9. Notice of dismissal will be promptly sent to the complainant advising them that the Title IX complaint (or allegations therein) has been dismissed and the reasons for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, both parties will receive the notice of dismissal.
10. Parties have the right to appeal the dismissal of a complaint using the procedures described below.
11. Retaliation against any party or witness for participating in the investigative process is prohibited.
12. The Investigator will conduct interviews of the parties and witnesses and obtain evidence. Knowingly making false statements or knowingly submitting false information during the investigative process is prohibited.
13. The parties have the right to identify witnesses and present and respond to evidence. Evidence that is determined not relevant or impermissible will be excluded.
14. The parties will be provided with an equal opportunity to access and respond to an accurate description of the relevant and not impermissible evidence submitted to or obtained by the investigator. Access to the relevant and not impermissible evidence will be granted to parties upon request.
15. Parties and their advisors are prohibited from disclosing information and evidence obtained solely through the Title IX investigation process without authorization.
16. The parties have the right to submit a written response to the evidence within ten (10) days of receipt to the investigator. All written responses will be considered by the investigator prior to reaching a determination as to whether prohibited conduct took place.
17. When credibility of the participants is in dispute and relevant to establish whether prohibited conduct took place, the investigator will assess the credibility of the parties and witnesses.
18. Determinations of whether prohibited conduct occurred will be made based on the preponderance of the evidence (whether based upon a review of all of the evidence, including the quality of the evidence and the credibility of the parties and witnesses, it is more likely than not that the alleged conduct occurred).
19. At the conclusion of the investigation, the investigator will notify the parties and, if applicable, their advisors in writing of the outcome of the complaint, including the determination of whether prohibited conduct occurred and the rationale for the determination.
20. Both parties have the option to appeal the determination as set forth below.
21. When a determination is made that prohibited conduct occurred, the Title IX

Coordinator will take immediate steps and appropriate follow-up action to ensure that the alleged conduct or activity does not continue or recur.

- a. Supportive measures shall be provided to the parties where appropriate.
- b. Students who have been found to have engaged in prohibited conduct will be subject to appropriate disciplinary responses in accordance with the Discipline Code and Chancellor's Regulation A-443.
- c. DOE or school staff members who are found to have engaged in prohibited conduct will be subject to appropriate disciplinary or corrective action.

APPEAL PROCEDURES

1. The parties may appeal a dismissal of the complaint and/or of the determination on any of the following grounds:
 - a. Procedural irregularity that would change the outcome of the matter;
 - b. New evidence that would change the outcome and that was not reasonably available when the determination was made; and/or
 - c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome of the matter.
2. Either party must file the appeal within seven (7) days of receiving the written decision regarding dismissal of the complaint or the written determination of the decision-maker.
3. DOE will notify the other party of the appeal and provide them with a copy of the appeal whenever an appeal is filed. The non-appealing party will have up to seven (7) days from receipt of the appeal to file a response to the written appeal.
4. A decision on the appeal will be made within ten (10) days of receipt of the responses to the appeal.