



Title IX

SEXUAL HARASSMENT: THE LAW, 2020 REGULATIONS AND MORE

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TRAINING PRESENTED BY: MAREE SNEED

Agenda

- Title IX Overview
- Title IX: Laws and Regulations
- Title IX and LGBTQ+ Students
- 2020 Title IX Sexual Harassment Regulations and Guidance
- Recent OCR Voluntary Resolutions
- Biden Administration's Proposed Title IX Regulations
- Connecticut Bullying/Harassment Laws □ Q&A

Title IX Overview

- Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) –

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 . . .

- Title IX prohibits sex discrimination in education and in employment.

What entities are covered by Title IX?

- ▶ Institutions receiving federal funding
 - School districts, colleges/universities, charter and for-profit schools and athletic associations
 - *Including organizations receiving “significant assistance” from these*
 - Educational programs offered by non-education institutions that receive federal funds, such as libraries, prisons, and museums



Who is protected by Title IX?



- Elementary through professional school
- Staff and students
- Men/boys, women/girls, and gender - nonconforming individuals
- Heterosexual, gay, lesbian, bisexual, and transgender persons
- Individuals with and without disabilities
- Individuals of different races, ethnicities and national origin
- U.S. citizens and non -citizens (including undocumented persons)

How is a school required to respond to potential Title IX violations?

- Schools have an affirmative obligation to respond appropriately to potential Title IX violations
- The required response depends on the type of sex discrimination
 - Sexual harassment
 - Other types of sex discrimination



Required response

	Sexual harassment	Other sex discrimination
What type of sex-based conduct does this apply to?	<ol style="list-style-type: none">1. Quid pro quo2. “Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity”3. Sexual assault, dating violence, domestic violence, stalking	Hostile environment – the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school
When is a school required to respond?	When it has actual knowledge of the conduct	When it knows or reasonably should know about the conduct
How must a school respond?	Promptly and not with deliberate indifference (i.e., not clearly unreasonable in light of the known circumstances)	Promptly and equitably
Other notes	The regulations include specific requirements and grievance procedures that must be followed	Same as required response to discrimination based on other protected statuses (e.g., race, disability)

What are some of the risks of violating Title IX?

- Private litigation
 - Students (and parents on behalf of their children) may sue districts. School districts may have to pay money damages when districts are found to have violated Title IX by failing to respond appropriately or to address adequately sex discrimination.
- Office for Civil Rights (“OCR”) complaint/investigation
 - A student, parent, or third party may submit a complaint to OCR, and OCR may investigate.
 - OCR may initiate its own investigations.
 - OCR may refer a case to the U.S. Department of Justice (“DOJ”).
- DOJ complaint/investigation

More on OCR

- The OCR is part of the U.S. Department of Education (“ED”).
- What OCR does:
 - Policy guidance
 - Technical assistance
 - Civil Rights Data Collection (“CRDC”)
 - Enforcement o Complaint process
 - o Compliance reviews
 - o Voluntary resolution
 - o Administrative hearing
 - o DOJ referral

“The mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.”

Title IX: The Law and Regulations

Overview of Sexual Harassment Guidance/Regulations

- ▶ 1975 -- Regulations first issued by the Department of Health, Education, and Welfare (ED's predecessor) did not address sexual harassment as a form of sex discrimination.
- ▶ 1997–2020 -- ED addressed sexual harassment through a series of guidance documents.
- ▶ 2018 – Trump Administration published proposed regulations to address sexual harassment.
- ▶ 2020 – Trump Administration published regulations addressing sexual harassment on May 19, 2020. Regulations became effective August 14, 2020.
- ▶ September 4, 2020 -- Trump Administration issued a Q&A regarding implementation of 2020 regulations.
- ▶ January 2021 – President Biden issued Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation.
- ▶ March 8, 2021 -- President Biden issued Executive Order on Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity.
- ▶ June 23, 2022 – Biden Administration proposed changes to 2020 sexual harassment regulations.

There is no date when changes to regulations will be final.

Takeaways for schools

- Where conduct may be based on an individual's actual or perceived sexual orientation or gender identity, schools have an affirmative duty to investigate and respond appropriately
- Schools must assess whether (i) sexual harassment or (ii) discriminatory harassment based on sex has occurred
- Schools may still punish bad behavior that does not rise to the level of sexual harassment or discriminatory harassment

Where can I find the text of the 2020 regulations?

You can find the sexual harassment regulations by clicking this link:

<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-oractivities-receiving-federal>

The text of the 2020 regulations begins at page 30,572. The information leading up to the text is called the “preamble.”

What do the 2020 regulations require?

Generally, the 2020 regulations require a school or district to respond “promptly” and not in a “deliberately indifferent” manner (i.e., not “clearly unreasonable in light of the known circumstances”) when it has “actual knowledge” of “sexual harassment” in its “education program or activity” against a person in the United States.

Summary of basic steps in 2020 regulations

1. District or school receives actual knowledge of conduct that may constitute sexual harassment.
2. District-level or school-based Title IX Coordinator meets with alleged victim to discuss supportive measures and process for filing a formal complaint.
3. Investigator leads investigation after formal complaint is in place and written notice is given to involved individuals and their parents/guardians. Investigator gathers and reviews evidence, allows responses to the evidence, and prepares an investigative report; involved individuals and their parents/guardians review and respond to the report.
4. Decision-maker provides opportunity for involved individuals and their parents/guardians to prepare written questions to be answered by other side. Decision-maker reviews all materials and makes written responsibility determination – an impartial determination as to whether alleged conduct occurred – including sanctions.

ED Title IX guidance (July 2021)

“A school must follow its policies for receiving and responding to reports of sexual harassment and may not adopt a policy of putting investigations or proceedings on hold due to COVID-19.” (Q29)

Who's Who-Title IX Coordinator

- 2020 regulations require a district have at least one district-level Title IX Coordinator. Connecticut law requires a Title IX Coordinator at each school, which is best practice.
- District-level or school-based Title IX Coordinator's overall responsibility is to coordinate compliance efforts by, among other things:
 - Developing materials and ensuring that professional development occurs for staff involved in Title IX efforts;
 - Creating systems to centralize records and gather relevant data;
 - Meeting with alleged victim and parents/guardians once made aware of alleged sexual harassment (cannot be delegated to support staff);
 - Coordinating implementation of supportive measures;
 - Signing a formal complaint to initiate grievance process (cannot be delegated to support staff).

Who's Who-Title IX Coordinator

- As a practical matter, certain Title IX Coordinator responsibilities are more appropriately carried out at one level – district or school.
- District-level Title IX Coordinator should, for example:
 - Develop materials and ensure that professional development occurs for staff involved in Title IX efforts.
 - Create systems to centralize records and gather relevant data.
- School-based Title IX Coordinator should, for example:
 - Meet with alleged victim and parents/guardians once made aware of alleged sexual harassment (cannot be delegated to support staff).
 - Coordinate implementation of supportive measures.
 - Sign a formal complaint to initiate grievance process (cannot be delegated to support staff).

Who's Who – Investigator

- School-based Investigator carries out investigation by conducting interviews of involved individuals and witnesses, collecting documentary and other evidence, and drafting investigative report.
- School-based Title IX Coordinator also may serve as Investigator.
- The Investigator may be an administrator, such as the assistant principal.

Who's who-Decision maker

- School-based Decision-maker reaches the responsibility determination by applying the standard of evidence selected by the district: “preponderance of the evidence” or “clear and convincing.”
- Neither the district-level Title IX Coordinator, school-based Title IX Coordinator, nor Investigator may also be the Decision-maker. However, the Investigator may offer recommendations to the Decision-maker.
- As a practical matter, the Decision-maker may be the principal (i.e., the highest school-level administrator).

“Actual knowledge”

- ▶ A school or district has actual knowledge when notice or allegations of sexual harassment are reported to any school employee; or any employee personally observes such behavior. A school or district employee includes the Title IX Coordinator, administrators, teachers, teacher's aides, bus drivers, cafeteria workers, counselors, school resource officers, maintenance staff workers, or any other employee.
- ▶ Actual knowledge is met when any employee:
 - ▶ – Witnesses the conduct;
 - ▶ – Hears about the conduct from the alleged victim or anyone else (e.g., parent, friend, peer, anonymous reporter); or
 - ▶ – Receives a written report of the conduct from the alleged victim or anyone else.

“Sexual harassment” is conduct on the basis of sex that is...

Category 1

Quid pro quo harassment by a school employee to a student – the employee conditions some type of aid, benefit, or service on the student’s participation in unwelcome sexual conduct

Category 2

“Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity”

Category 3

Other conduct defined by federal law:

- Sexual assault
- Dating violence
- Domestic violence
- Stalking

“Where conduct is sexual in nature, or where conduct references one sex or another, that suffices to constitute conduct ‘on the basis of sex.’”

85 Fed. Reg. at 30,146

"Education program or activity"

- "Education program or activity" includes locations, events, or circumstances over which a school district exercised substantial control over the alleged perpetrator and the context in which the sexual harassment occurred
- Depending on the circumstances, may cover incidents that occur off school district property or online (e.g., field trip, school district's digital platform)



Required response

	Sexual harassment	Other sex discrimination
What type of sex-based conduct does this apply to?	<ol style="list-style-type: none">1. Quid pro quo2. "Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity"3. Sexual assault, dating violence, domestic violence, stalking	Hostile environment – the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school
When is a school required to respond?	When it has actual knowledge of the conduct	When it knows or reasonably should know about the conduct
How must a school respond?	Promptly and not with deliberate indifference (i.e., not clearly unreasonable in light of the known circumstances)	Promptly and equitably
Other notes	The regulations include specific requirements and grievance procedures that must be followed	Same as required response to discrimination based on other protected statuses (e.g., race, disability)

Response Checklist

- Incident-specific response:
 - Victim(s) and parents
 - Perpetrator(s) and parents
 - Staff who knew or should have known
- School-wide response:
 - Students
 - Staff
 - Parents



The nature of these steps will depend on the ages/status of the victim(s) and perpetrator(s), and the context of the harassment.

Responding to Allegations of Sexual Harassment

- ▶ If a district has actual knowledge of sexual harassment allegations, district must respond promptly and in a manner that is not deliberately indifferent (i.e., not “clearly unreasonable in light of the known circumstances”).
- ▶ District must offer “supportive measures” to alleged victim (complainant) and follow grievance process that meets certain minimum requirements before imposing discipline or other actions that are not supportive measures against an alleged perpetrator (respondent).
- ▶ District may not continue with the grievance process in the absence of a formal complaint.

Responding to Allegations of Sexual Harassment

- Provide for the “prompt and equitable” resolution of student and employee complaints.
- Treat complainants and respondents equitably
- Require objective evaluation of all relevant evidence.
- Require that Title IX Coordinator, Investigator, Decision-maker, or any other key player have no conflicts of interest or bias for or against complainants or respondents, and that all such individuals receive specified professional development.
- Include a presumption of innocence for respondents.
- School must ensure that it is not deliberately indifferent in responding to sexual assault or sexual harassment.
- Deliberate indifference occurs when a school has actual knowledge of sexually assault or sexual harassment and the school’s response is clearly unreasonable based on the known circumstance.

Responding to Allegations of Sexual Harassment

- Designate reasonably prompt time-frames for resolution and range of possible disciplinary actions.
- Use either “preponderance of the evidence” or “clear and convincing” standard and apply it equally to employee and student complaints.
- Provide complainant and respondent (and their parents/guardians) an equal opportunity to review any evidence obtained that is directly related to the allegations raised in a formal complaint.
- Address certain other procedural steps enumerated at 34 C.F.R. § 106.45 of the 2020 regulations, many of which are addressed in this professional development.

Basic Steps outlined in the 2020 regulations

1. District or school receives actual knowledge of conduct that may constitute sexual harassment.
2. District-level or school-based Title IX Coordinator meets with alleged victim to discuss supportive measures and the process for filing a formal complaint.
3. Investigator leads investigation the formal complaint is made and written notice is given to involved individuals and their parents/guardians. Investigator gathers and reviews evidence, allows responses to evidence, and prepares investigative report; involved individuals and their parents/guardians review and respond to report.
4. Decision-maker provides opportunity for involved individuals and their parents/guardians to prepare written questions to be answered by other side. Decision-maker reviews all materials and makes a written responsibility determination – an impartial determination as to whether alleged conduct occurred – including sanctions.

Meeting to Offer Supportive Measures

- A district's Title IX responsibilities are triggered once it is put on notice of alleged sexual harassment (i.e., actual knowledge). School-based Title IX Coordinator must “promptly” contact the alleged victim and their parents/guardians to discuss availability of and consider their wishes regarding supportive measures.
- Grievance policy must describe range of available supportive measures. Examples include:
 - Counseling;
 - Extensions of deadlines or other course-related adjustments;
 - Changes to class schedules; and
 - Increased monitoring/security of certain areas.
- District must inform alleged victim and parents/guardians that supportive measures are available with or without filing of formal complaint and also must explain the process for filing a formal complaint.

Formal Complaint to Initiate Grievance Process

- No investigation of alleged sexual harassment may occur until after formal complaint has been filed.
- Formal complaint must be filed by alleged victim or parent/guardian. Complaint must describe sexual harassment allegations and request that district investigate.
 - Formal complaint may be filed at any time as long as alleged victim is “participating in or attempting to participate in the education program or activity” of district at time of filing.
 - District should create a standard formal complaint form.
- School-based Title IX Coordinator may initiate formal complaint and investigation on his or her own if the decision is not clearly unreasonable in light of the known circumstances (e.g., alleged perpetrator may pose an ongoing safety threat).

July 2021 Title IX Guidance

“The preamble gives several examples of situations of a complainant ‘attempting to participate’ in a school’s education program, including when a complainant:

1. Has withdrawn from the school due to alleged sexual harassment and expresses a desire to re-enroll if the school responds appropriately to the allegations,
2. Has graduated but intends to apply to a new program or intends to participate in alumni programs and activities,
3. Is on a leave of absence and is still enrolled as a student or intends to re-apply after the leave of absence, or
4. Has applied for admission.

It is important to keep in mind that this requirement concerns a complainant’s status at the time a formal complaint is filed and is not affected by a complainant’s later decision to remain or leave the school.”

July 2021 Title IX Guidance

“In some cases, a school may be in violation of Title IX if the Title IX Coordinator does not [file a formal complaint]. For example, the preamble explains that if a school ‘has actual knowledge of a pattern of alleged sexual harassment by a perpetrator in a position of authority,’ OCR may find the school to be deliberately indifferent (i.e., to have acted in a clearly unreasonable way) if the school’s Title IX Coordinator does not sign a formal complaint, ‘even if the complainant . . . does not wish to file a formal complaint or participate in a grievance process.’”

“Put simply, there are circumstances when a Title IX Coordinator may need to sign a formal complaint that obligates the school to initiate an investigation regardless of the complainant’s relationship with the school or interest in participating in the Title IX grievance process. This is because the school has a Title IX obligation to provide all students, not just the complainant, with an educational environment that does not discriminate based on sex.”

Grievance Process after Formal Complaint Filed

- What are the basic parts of the grievance process after a formal complaint is filed?
 - Notice
 - Investigation
 - Written questions and answers
 - Responsibility determination
 - Appeal
- District must set reasonably prompt timeframes for carrying out grievance process.

Notice

- Once a formal complaint is filed, district must provide to known involved individuals, including parents/guardians:
 - Written notice of sexual harassment allegations in sufficient detail by including identities of involved individuals (if known), conduct allegedly constituting sexual harassment, and date and location of incident (if known) and
 - A copy of grievance policy.
- The written notice also must:
 - Include statement that respondent is presumed not responsible for alleged conduct and that determination regarding responsibility is made at conclusion of grievance process.
 - Generally, no disciplinary action may be taken against respondent until after grievance process is carried out. Grievance policy must describe range of possible sanctions or remedies.
 - Inform involved individuals that they may have advisor of their choice and may inspect and review evidence.
 - Inform involved individuals of any code of conduct provision that prohibits knowingly making false statements or knowingly submitting false information during grievance process.

Investigation

- District must ensure that it has burden of proof and burden of gathering evidence sufficient to reach responsibility determination; these burdens do not belong to the involved individuals.
- District must not restrict ability of involved individuals to discuss allegations under investigation or gather and present relevant evidence.

Investigation: Step #1

Review applicable statutes, regulations, and school district policies and procedures. Follow all applicable policies and procedures throughout the investigation.

- As Investigator, your first step is to review your district's sexual harassment policies and procedures, which should incorporate the federal requirements. Follow those procedures throughout your investigation!



Investigation: Step #2

Ask the complaining student or staff member for a full narrative of the facts to supplement the information initially provided.

- The Investigator should double-check to ensure that the complainant has provided all relevant information, including:
 - Who, what, when, where;
 - Race, ethnicity, and gender of victim;
 - Students, teachers, or other staff involved;
 - Witnesses to the incident; and
 - The specific nature of the alleged sexual harassment.
- The Investigator should review the complainant's responses carefully before conducting any further interviews.



Investigation: Step #3

Review student/staff files of individuals allegedly involved in the incident.

- Reviewing the files will provide the Investigator with key background facts that can inform his or her questioning of the victim, the alleged perpetrator, and witnesses.



Investigation: Step #4

Interview all alleged victims.

In addition to the standard factual information, the Investigator should consider asking the victim(s) the following questions:

- How did you react to the harassment?
- How has the alleged harassment affected you and your experience at school?
- Are there any other students, teachers, or staff that might have relevant information?
- Do you have any notes, emails, text messages, documentation, or other physical evidence related to the incident?
- How would you like to see this situation resolved?

Note: Hold separate interviews with each alleged victim.

Provide interviewees – whether they are the victim, a witness, or the alleged perpetrator – with appropriate translation services if the interviewee is an English Language Learner.



Investigation: Step #5

Interview other witnesses individually.

- A full investigation includes interviews with all potential witnesses, even if the first few witnesses interviewed have provided identical information.
- The Investigator should explain briefly the reasons for the interview and ask whether the witness has any relevant information about the alleged incident.
- The Investigator should consider asking the following questions:
 - Describe the alleged perpetrator's general behavior toward the victim.
 - What, if anything, did the victim tell you about the incident?
 - Do you know of anyone else who might have relevant information?
 - Are you aware whether the alleged perpetrator has ever engaged in similar conduct in the past?
- Be sure that you have captured all potential witnesses by encouraging your interviewees to list any other students or school personnel who could possibly have information about the incident.



Investigation: Step #6

Interview the alleged perpetrator(s).

- The Investigator should inform the alleged perpetrator(s) of the allegations against them.
- The investigator should ask the alleged perpetrator(s) about the basic facts surrounding the incident and give the alleged perpetrator(s) an opportunity to explain the reasons for their actions.

Note: Hold separate interviews with each alleged perpetrator.



Investigation: Step #7

Review the notes from the interviews.

- Follow up on any factual inconsistencies. Re-interview witnesses as necessary.
- If the alleged perpetrator says something that directly contradicts what the alleged victim reported to you, circle back with the alleged victim to clarify their version of the events.



Investigation: Step #8

Allow the alleged victim and perpetrator to review the evidence.

- Any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint must be made available to each party in electronic or hard copy form.
- The Investigator must allow the parties 10 days to submit a written response to the evidence, and the Investigator must consider such responses prior to completion of an investigative report.



Investigation: Step #9

Prepare an investigative report, and share with the alleged victim and perpetrator.

- The investigative report must fairly summarize the relevant evidence.
- The investigative report must be sent to the parties in electronic or hard copy form for their review and written response. Parties must have at least 10 days to respond before continuing on with the grievance process.




Written Questions and Answers

- District must use written questions and answers as part of grievance process.
- Decision-maker must:
 - Allow the involved individuals and their parents/guardians to submit written, relevant questions to ask the other side (including witnesses) and
 - Decision-maker must explain any decision to exclude a question as irrelevant.
 - The alleged victim's prior sexual behavior is not relevant unless offered to prove that someone other than alleged perpetrator committed alleged conduct or to prove consent. Consent is not defined in the 2020 regulations.
 - Provide each side with answers to their questions.
 - Allow for additional, limited follow-up questions.

Responsibility Determination

- District must use Decision-maker who is not same person as Title IX Coordinator or Investigator.
- Decision-maker must apply standard of evidence selected by the district
 - “preponderance of the evidence” or “clear and convincing standard” – to reach determination as to whether alleged conduct occurred.
- Decision-maker must issue a written determination that:
 - Identifies the allegations;
 - Describes the procedural steps taken by district;
 - Explains responsibility determination, including findings of fact, disciplinary sanctions, applicability of code of conduct, and remedies; and
 - Outlines appeal procedures.



ED Title IX guidance (July 2021)

“When a school finds a respondent responsible for sexual harassment under its Title IX grievance process, the school must provide remedies to the complainant that are ‘designed to restore or preserve equal access to the [school’s] education program or activity.’ These remedies may include the same individualized services that the school provided to the complainant as supportive measures, additional services, or different services.”

Appeal

- District must provide for appeal of responsibility determination or dismissal of formal complaint if an involved individual or his or her parents/guardians asserts that:
 - A procedural irregularity affected the outcome;
 - New evidence may affect the outcome and was not previously reasonably available; or
 - The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias that affected the outcome.
- The Decision-maker on appeal may not be initial Decision-maker, Investigator or Title IX Coordinator.

Dismissal of Formal Complaint

- District must dismiss formal complaint for purposes of Title IX sexual harassment under certain circumstances, including:
 - Alleged conduct, even if true, would not constitute sexual harassment;
 - Alleged conduct, even if true, did not occur in district's education program or activity; and
 - Alleged conduct, even if true, did not occur against a person in United States.
- A school has discretion to dismiss a formal complaint during grievance process under certain circumstances, including:
 - Alleged perpetrator is no longer enrolled or no longer employed by district;
 - Alleged victim and his or her parents/guardians notifies Title IX Coordinator in writing that formal complaint or any allegations in complaint are withdrawn; and
 - Specific circumstances prevent district from gathering evidence

Professional Development Requirements

- District must provide professional development to individuals designated as Title IX Coordinator, Investigator, Decision-maker, or Facilitator of informal resolution process.
- District must make training materials publicly available on district website.
- As best practice, district should provide professional development to other employees who are not part of the core Title IX team.

Professional Development Requirements

- Required professional development topics for individuals designated as a Title IX Coordinator, Investigator, Decision-maker, or Facilitator of informal resolution process include:
 - Definition of sexual harassment;
 - Scope of the school district's education program or activity;
 - Process for conducting investigation and grievance process;
 - Requirements for how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias: and
 - Process for determinations, both for questions and evidence, and for information to be included in investigative report.

Recordkeeping Requirements

District must maintain certain records for seven-year period. Examples of required recordkeeping include:

- Investigation, appeal, and informal resolution records;
- Records of any actions – including any supportive measures – taken in response to a report of formal complaint of sexual harassment; and
 - Among other things, the school must document why its response was not deliberately indifferent or “clearly unreasonable in light of the known facts.”
- Records of professional development materials.

Emergency Removal and Administrative Leave

Generally, district may not sanction alleged perpetrator until after grievance process is carried out. However, regulations provide exceptions for emergency removal and administrative leave under certain circumstances and in compliance with disability laws.

- Emergency removal may occur if district has (1) undertaken individualized safety and risk analysis; (2) determined that immediate threat to the physical health or safety of a student or other individual arising from the allegations justifies removal; and (3) provided alleged perpetrator with notice and an opportunity to challenge the decision immediately following removal.
- District may place employee on administrative leave for duration of the grievance process without having to follow emergency removal criteria outlined above

Informal Resolution Process

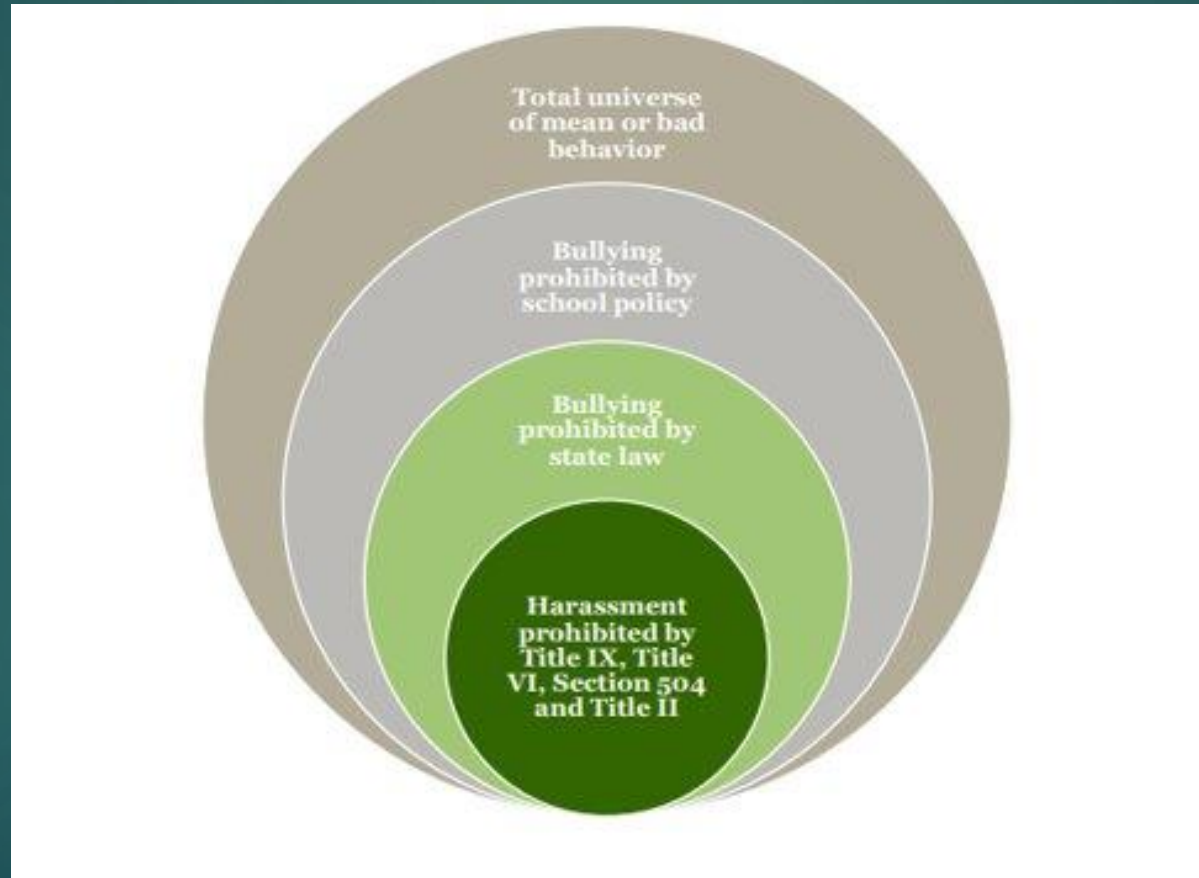
Though not required, district may offer informal resolution process to involved individuals and their parents/guardians after formal complaint has been filed.

- Informal resolution cannot be offered if alleged perpetrator is employee;
- District must develop and share procedures for informal resolution;
- District must obtain voluntary, written consent from involved individuals and their parents/guardians to participate in informal resolution after sharing:
 - Allegations;
 - Requirements of informal resolution process and
 - Any consequences resulting from participation in informal resolution process (e.g., records that will be maintained or could be shared).
- Anyone may withdraw from informal resolution process and resume grievance process with respect to the formal complaint.

Sexual Harassment Regulations: Relation to Other Laws

- District may not restrict rights protected under U.S. Constitution, including the First, Fifth, and Fourteenth Amendments.
- 2020 regulations set minimum requirements for Title IX compliance. State and local law may prescribe additional responsibilities related to a district's response to sexual harassment allegations. In cases of conflict, however, 2020 regulations preempt state and local law.
- When employees are involved in alleged sexual harassment, district may need to consider its obligations under both Title IX and Title VII.
- Districts still must respond to complaints of sex discrimination that do not meet the definition of "sexual harassment."

The Universe of Bullying & Harassment



Connecticut Law: Nondiscrimination in Public Schools

“The public schools shall be open to all children five years of age and over . . . and each such child shall have . . . **an equal opportunity to participate in the activities, programs and courses of study** offered in such public schools . . . without discrimination on account of race, color, sex, gender identity or expression, religion, national origin or sexual orientation. . . .”

-- Conn. Gen. Stat. § 10-15c

Connecticut Law: Bullying Definition

- Act that is direct or indirect and severe, persistent, or pervasive, which:
 - Causes physical or emotional harm to an individual;
 - Places an individual in reasonable fear of physical or emotional harm;or
 - Infringes on the rights or opportunities of an individual at school.
- “‘Bullying’ shall include, but need not be limited to, a written, oral or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristic, such as **race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, socioeconomic status, academic status, physical appearance, or mental, physical, developmental or sensory disability**, or by association with an individual or group who has or is perceived to have one or more of such characteristics” (Conn. Gen. Stat. § 10-222d).
- A single act may be sufficient in some circumstances to constitute bullying.

Key Contact Information

For complaints regarding bullying based on protected characteristics (such as race, gender, religion, and sexual orientation) and other acts of bias and discrimination, please contact:

Dr. Adrian R. Wood

State Title IX Coordinator

CT State Department of Education

Turnaround Office

450 Columbus Boulevard, Suite 602

Hartford, CT 06103-1841

Telephone: (860) 713-6795

E-mail: adrian.wood@ct.gov

Formal complaints based on protected characteristics may be directed to:

The Commission on Human Rights and Opportunities (CHRO)

450 Columbus Boulevard, Suite 2

Hartford, Connecticut 06103

Telephone: 860-541-3400 Toll Free (CT): 1-800-477-5737

Web site: <http://www.state.ct.us/chro/>