

Title IX Investigator Training

Davis School District
Educational Equity Department

Session Objectives

Define	Explain	Review
Define sexual harassment under the new Title IX guidelines	Explain the Title IX grievance process	Review the investigative process

Title IX Overview

What is Title IX?

- Created as part of the Education Amendments of 1972 to make sure there was parity in sports.
- "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."
- In 1999, sexual harassment was included under Title IX.

What Constitutes Sexual Harassment?

An employee
conditioning the
provision of a benefit
on an individual's
participation in
unwelcome sexual
conduct (Quid Pro Quo)

Unwelcome conduct that
is severe, pervasive,
AND objectively
offensive

Sexual assault, dating
violence/ domestic
violence, or stalking
as defined in the VAWA

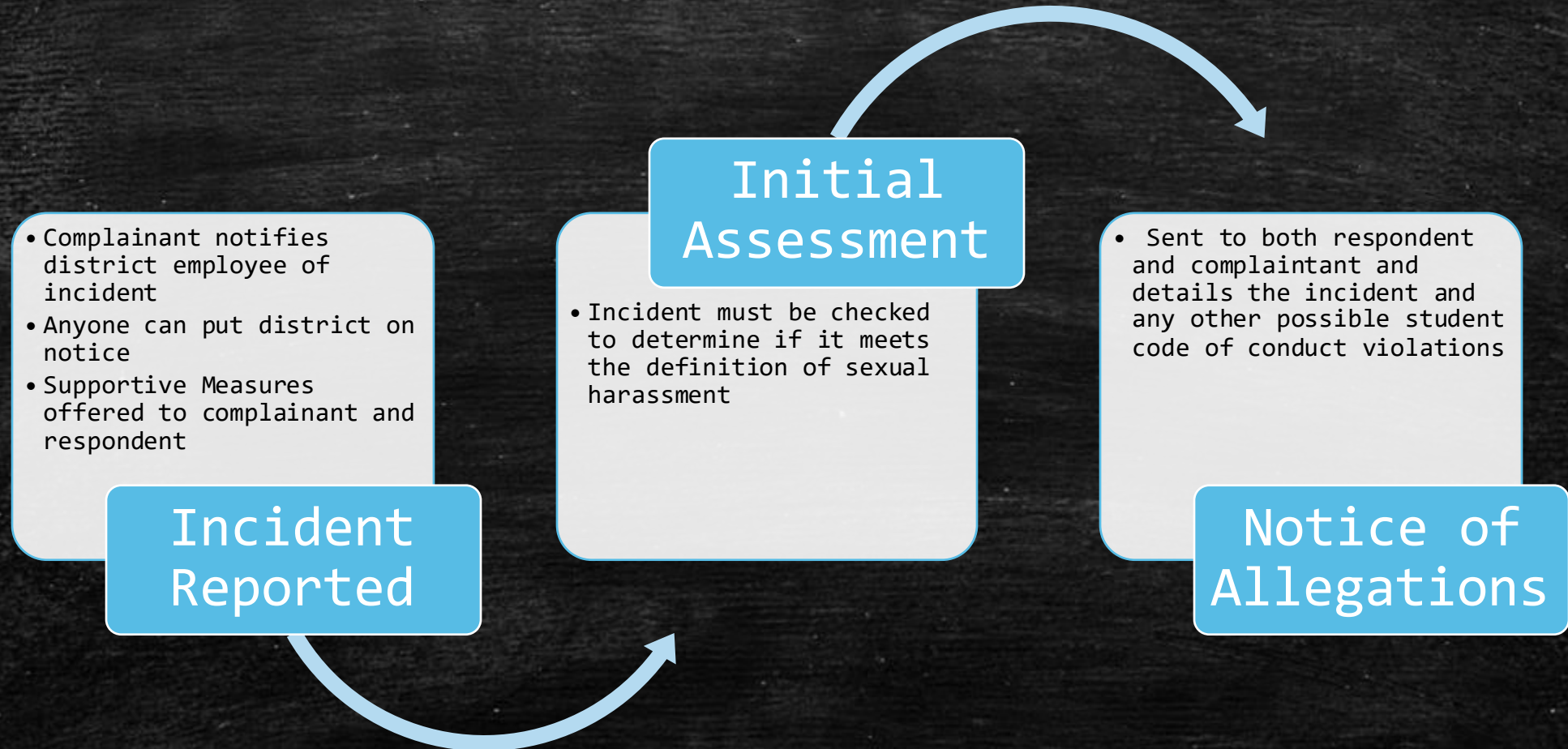
Title IX Changes

1. Definition of sexual harassment now only reserved for very serious conduct.
2. Respondents must receive written notice BEFORE they are interviewed.
3. Parties will be able to have an advisor (e.g. an attorney) present at interviews.
4. Gag orders are prohibited.
5. The person who investigates the allegation and the person who makes the final decision must be different people.
6. Both parties have extensive opportunities to respond to the allegations against them.

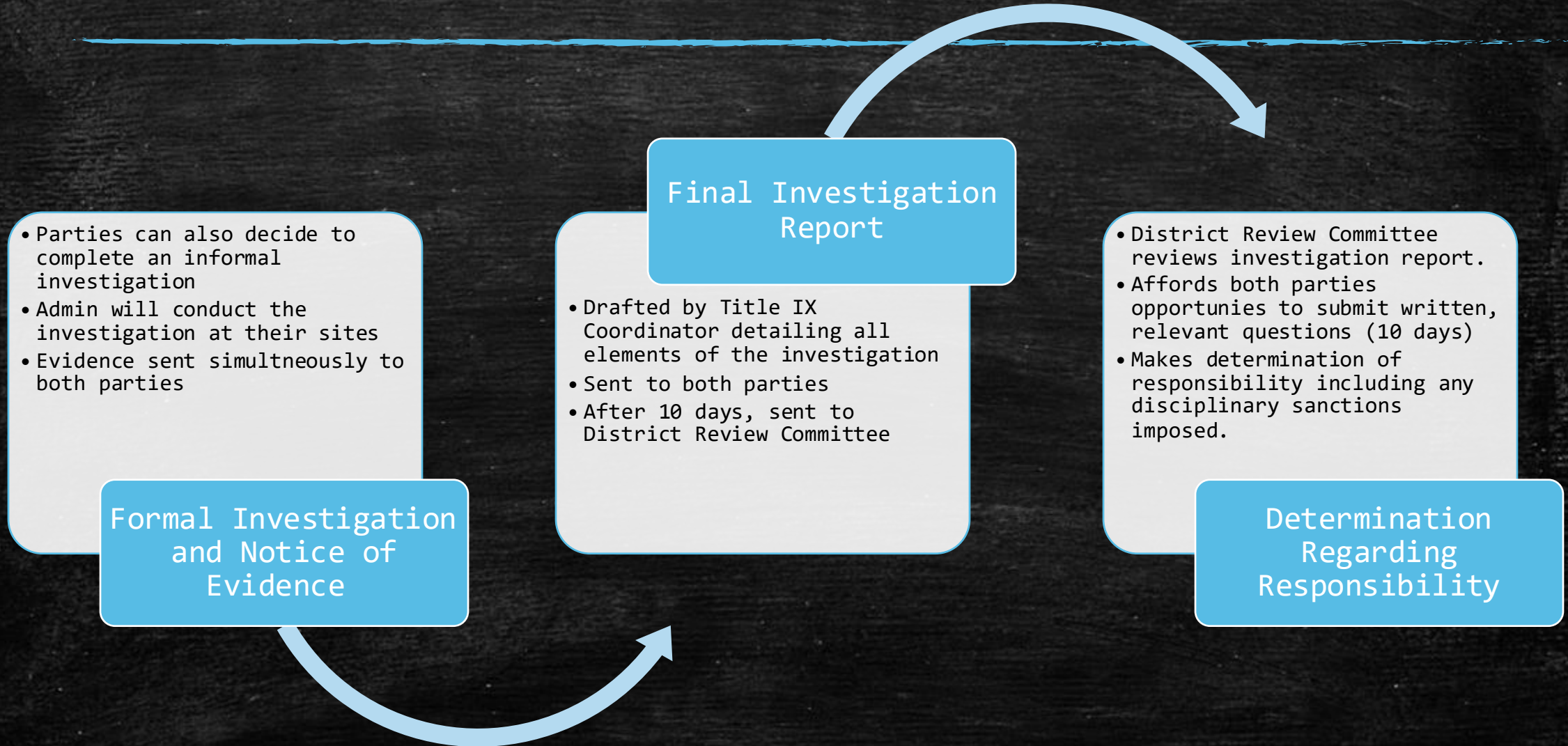
Jurisdiction for Sexual Harassment

Complainant	Sexual Harassment
Must be currently enrolled or attempting to enroll	Must occur during the school's educational program
	Must occur in the U.S.
	Must meet the definition of sexual harassment

The Process



The Process (Continued)



Informal Resolution

- Parties may decide and agree at any time prior to the decision and after the formal complaint has been filed to engage in Informal Resolution
- Cannot take disciplinary actions against respondent but supportive measures are still offered.
- Informal Resolution is NOT available when the complainant is a student, and the respondent is a teacher/ employee of district.
- Facilitated by the administrator

Conducting the Investigation



Step 1: Evaluate the Information Received

- When an incident is alleged or a formal complaint is filed, the information must be evaluated to determine if it rises to the level of sexual harassment as defined by the law.
 - If it is a Title IX violation, contact the Title IX Coordinator immediately
 - If it is a policy violation, follow district procedure for handling such offenses.



Step 2: Create an Investigative Plan

- Investigative Plan creates continuity
- Investigative Plan shows you are unbiased and thorough.
- Questions to ask:
 - How will you obtain needed information?
 - Who will you interview?
 - What evidence will you need to review?

Step 3a: Gather Evidence

- Don't jump to conclusions and don't pre-judge what is important
- Evidence can be used to corroborate that something did or did not happen
- The responsibility of finding evidence is on the district.
 - Cannot expect Complainant or Respondent to provide evidence
- All information is helpful, but not all information is relevant.
 - However, be careful when you place parameters on what is relevant
- Interview:
 - Purpose: build "library of knowledge"
 - No leading questions
 - No options (instead, "Tell me more about...")
 - "Communication is a one-way street "

Step 3b: Organize Evidence

Relevant evidence

Related (but not relevant)
evidence

Not relevant nor directly
related.

Step 4: Remain Impartial

- A bias is a predisposition that prevents a person from impartially reviewing the facts.
- To avoid bias, develop a consistent process.
- Identify and acknowledge your own personal biases
- Back up decisions in writing using evidence.
- Follow all possible leads/ tips
- Do not base decisions on 'gut feelings'

Step 5: Investigation Report

- Title IX Coordinator will collect the evidence from the school and develop the report.
- The report will be the summarization of all the evidence.
- There is no determination made at this stage.
- Report presented to both parties simultaneously for written response.

The Decision-Making Process

Decision Making in the K-12 Setting

- Done via committee (no hearing)
- Parties may have advisors of their choice
- Investigators and Title IX Coordinator cannot be members of the decision-making committee

Appeal Process



- Comprised of Director of Equity, Director of Professional Development, Director of Custodial Services.
- Reasons for Appeal
 - Procedural irregularity
 - New evidence
 - Conflict of interest or bias

Case Study #1

- Every day, a group of high school girls stand outside the cafeteria ranking the "skankiness" of other girls as they walk by, using a ten-point scale. They write their ratings on individual small white-boards and hold them up for everyone to see. They also make comments about the number of partners the rated girls have had as well as their favorite positions, etc. The comments are sent via Snapchat and shared among a large group of students watching the debacle.
- *Could this behavior be severe, pervasive, and objectively offensive?*
- *How should you address this?*

Case Study #1

- The parents of a 6th grade transgender student send an email expressing their displeasure that their child has reported that the teacher is deadnaming the student even though parents have given their express permission for the child to be called by their preferred name. You speak with the teacher who informs you that using the child's "other name" goes against their personal and deeply held religious beliefs.
- *Could this behavior be severe, pervasive, and objectively offensive?*
- *How should you address this?*

Case Study #2

- An 11th grade female student used SnapChat to ask a 12th grade male student to have sex with her. He refused. She then responded that she would rape him if he did not have sex with her. He took a screenshot and showed a building administrator. As a result of the exchange, he has been avoiding her at school and requested to be switched out of the class in which they are both enrolled.
- *Could this behavior be severe, pervasive, and objectively offensive?*
- *How should you address this?*

Case Study #3

- A 11th grade male student complainant stated that a 10th grade male classmate approached him and asked for his phone number to coordinate a study session for an exam. The complainant reported that the two texted for a bit and then his classmate asked if he was single. The complainant responded that he was just interested in being friends. The next day after school, when they were leaving campus together, the complainant reports the respondent cornered him against a wall and "grabbed my face and shoved his tongue down my throat forcefully."
- *Could this behavior be severe, pervasive, and objectively offensive?*
- *How should you address this?*

Case Study #4

- Complainant alleged that her boyfriend of two years physically abused her periodically over the last 12 months. The complainant wants to introduce the following text message from 15 months ago as evidence:
 - C: "hey now! Rude. You best watch urself, u know I can beat you up!"
 - R: "Whatever. I boxed all through high school, u wouldn't stand a chane...better not make me mad!"
- *Is this evidence relevant or directly related?*

Case Study #5

- Respondent wants to introduce evidence that the complaint has only alleged sexual assault she was upset that he did not take her to homecoming. Should the investigator determine this evidence is relevant, directly related, or neither?
- *Is this evidence relevant or directly related?*



Questions? Contact Me

Equity Department, Kendell Building

Direct Line: 801-402-5447

Cell: 801-425-2268

bmittendorf@dsdmail.net