



2019 FOIL FALL Conference



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EQUITY 101:

REFRESHER ON CIVIL RIGHTS RESPONSIBILITIES



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OEEO Responsibilities

- Evaluate Districts' Annual Updates
- Technical Assistance and Consultative Services
 - Facilitate Complaints
- Conduct Civil Rights On-Site Compliance Review



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Sources of Requirements

- Title VI Regulations
- Title IX Regulations
- Section 504 Regulations
- Title II Regulations
- Guidelines



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COORDINATORS







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Sources of Coordinator Requirement

- Title VI – Best Practice
- Title IX – 34 C.F.R. § 106.8(a)
- Section 504 – 34 C.F.R. §§ 104.7(a), 104.8(a)
- Title II – 28 C.F.R. § 35.107



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Designation of a Coordinator

- Recipients must have at least one person designated and actually serving as the coordinator at all times.
- Includes coordination of the investigation of any complaints alleging noncompliance with or other actions prohibited by the civil rights laws.
- It may be a good practice for some larger school districts, colleges, and universities, to designate multiple coordinators.



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Independence and Conflicts of Interest

- Coordinator 's role should be independent to avoid any potential conflicts of interest.
- Designating a disciplinary board member, general counsel, dean of students, superintendent, principal, or athletics director as the coordinator may pose a conflict of interest.
- Designating a full-time coordinator will minimize the risk of a conflict of interest.



Coordinator's Authority and Responsibilities

- Coordinators must be given the authority to coordinate the recipient's civil rights compliance.
- Coordinators should coordinate the recipient's responses to all discrimination complaints, even if initially filed with or investigated by another office.
- Recipients must not interfere with the coordinator's participation in complaint investigations and monitoring of the recipient's efforts to comply with and carry out its responsibilities under federal civil rights laws.



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Visibility and Training

- Recipients must notify the school community of the coordinator's name/title, office address, telephone number, and email address of the coordinator.
- Recipients must ensure that coordinators are appropriately trained and possess comprehensive knowledge in all areas over which they have responsibility, including the recipients' policies and procedures.
- Starting this year, OCR's Civil Rights Data Collection asks for coordinator's names and contact information.



Investigating Coordinators

- Does the coordinator have authority to fulfill the coordinator's responsibility?
- Are there any conflicts of interest?
- If there are multiple coordinators, does one have overall responsibility?
Are each coordinator's responsibilities clear?





Investigating Coordinators

- Does the coordinator have the qualifications ,training, and time to address all complaints throughout the institution, including those raising Title IX issues?
- Who coordinates recordkeeping?
- Is the coordinator equipped to recognize possible patterns of discrimination or identify any systemic problems in the school's response?





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For more information on coordinators:

- Dear Colleague Letter on Title IX Coordinators (April 2015),
www.ed.gov/ocr/letters/colleague-201504-titleix-coordinators.pdf
- Letter to Title IX Coordinators (April 2015),
www.ed.gov/ocr/docs/dcl-title-ix-coordinators-letter-201504.pdf
- Title IX Resource Guide April 2015),
www.ed.gov/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf
- Questions and Answers on Title IX and Sexual Violence (April 2014),
www.ed.gov/ocr/docs/qa-201404-title-ix.pdf



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ANNUAL NOTICE



Source of Annual Notice Requirement

- Guidelines – Section IV-O

Overview of Annual Notice Requirement

Three basic elements:

1. a statement of nondiscrimination that specifies the bases for nondiscrimination;
2. a brief summary of the recipient's program offerings and admission criteria, and
3. the name, address, and telephone number of the Title IX coordinator and Section 504 coordinator



Publication of Annual Notice

- Must be published prior to the beginning of each school year.
- Publication must reach students, parents, employees, and the general public.
- It is generally acceptable to publish the annual notice only on the recipient's website.



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Notice to English Learners

If the recipient's service area contains a community of national origin minority persons with limited English language skills, the annual notice must:

- be disseminated to that community in its language and
- state that recipients will take steps to assure that the lack of English language skills will not be a barrier to admission and participation in the recipient's CTE programs.



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Issue Spotting

On the first day of classes, the Dolphin School District published a notice in its campus newspaper that “DSD does not discriminate against anyone for any reason. If you think you have been discriminated against, you should contact the Office for Civil Rights.”





CONTINUOUS NOTICE

Sources of continuous notice requirements

- ❑ Title VI – 34 C.F.R. § 100.6(d)
- ❑ Title IX – 34 C.F.R. § 106.9
- ❑ Section 504 – 34 C.F.R. § 104.8
- ❑ Title II – 28 C.F.R. § 35.106





Overview of Continuous Notice Requirement

Two basic elements:

- a statement of nondiscrimination that specifies the bases for nondiscrimination and
- the name, address, and telephone number of the Title IX coordinator and Section 504 coordinator



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Sample of Continuous Notice

"[Recipient] does not discriminate on the basis of race, color, national origin, sex, disability or age in its programs or activities [ESE only: and provides equal access to the Boy Scouts and other designated youth groups]. The following person has been designated to handle inquiries regarding the nondiscrimination policies: name/ title, address, telephone number, email."



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Publication of Continuous Notices

Publication must reach participants, beneficiaries, applicants for admission and employment, sources of referral of such applicants, employees (including persons with impaired vision or hearing), and unions with collective bargaining agreements. Places to publish:

- Application forms, catalogs, and other recruiting materials
- Recipient's newsletters and magazines
- Website and electronic publications
- Written materials distributed to students
- Local newspaper



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Issue Spotting!!

All district recruiting materials include the following statement:

"XYZ School District does not discriminate on the basis of race, color, ethnicity, gender, handicap or age in its programs or activities and provides equal access to the Boy Scouts and other designated youth groups. If you have questions, please call 555-867-5209."

For more on continuous notices:

Notices of Non-Discrimination (August 2010)

www.ed.gov/ocr/docs/nondisc.html

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GRIEVANCE PROCEDURES





Sources of Requirement for Grievance Procedures

- Title VI – Best Practice**
- Title IX – 34 C.F.R. § 106.8(b)**
- Section 504 – 34 C.F.R. § 104.7(b)**
- Title II – 34 C.F.R. § 35.107(b)**



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Overview

All recipients must:

- adopt and publish grievance procedures
- provide for prompt and equitable resolution of complaints
- Protect student and employee complaints alleging discrimination/harassment.



Prompt and Equitable

1. The recipient must provide notice of the procedures to students, parents and employees.
2. The procedures must apply to complaints alleging discrimination carried out by employees, other students, or third parties.
3. The procedures must provide an adequate, reliable and impartial investigation of complaints, including opportunity to present witnesses and other evidence.
4. The procedures must designate reasonably prompt time frames for the major stages of the complaint process.
5. The recipient must provide written notice to the parties of the outcome of the complaint.
6. The recipient must also provide assurance that the district will take steps to prevent the recurrence of any discrimination and to correct its discriminatory effects on the complainant and others, if appropriate.



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Voluntary Informal Mechanisms

- Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of complaints if the parties agree to do so.
- The complainant must be notified of the right to end the informal process and begin the formal stage at any time.
- In cases involving allegations of sexual assault, mediation is not appropriate, even on a voluntary basis.



Clarifications

- The procedures need not have a particular name (e.g., "Title IX Grievance Procedures").
- Recipients need not have a separate grievance procedure for each regulation or a separate procedure for sexual harassment.
- Recipients with multiple grievance procedures must make clear when each should be used.



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ON-SITE REVIEWS





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What is the Purpose of the Compliance Review?

The purpose of the review is to ensure that educational programs, services and activities, as well as employment practices are provided by the district in compliance with the requirements of federal and state **Civil Rights laws and regulations.**



Request Before Going On Site

- Copies of the annual and continuous notices from various publications and documents
- Names of persons responsible for preparing or disseminating the notices
- Names and contact information of coordinators
- Copies of the recipient's notice to the school community of the identities of coordinators
- Copies of grievance procedures used for discrimination and harassment



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Conduct On-site Reviews

- Coordinators
- Students
- Faculty
- Staff





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BROAD AREAS

Administrative

Recruitment of Students

Admissions and Treatment

Student Financial Assistance

Counseling Services

Services for Students with Disabilities

Facilities Accessibility

Comparable Facilities

Gender Equity in Athletics

Student Employment

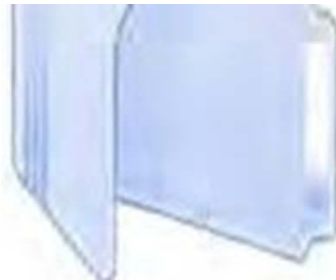
Employment Practices



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Review Records of Proceedings

You should review one or more records of proceedings to determine whether the process for resolving complaints of discrimination is prompt and equitable.





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ACCESSIBILITY

Standards used to determine accessibility Compliance depend on the year construction began on the building.



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COMPARABLE FACILITIES

Separate programs or facilities for specific group of students must be comparable to those of the general population students.



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Compliance is Not Conditional on Demographics

- Even if no student with a physical impairment is enrolled, a recipient or public entity must be prepared to take steps to make its programs, services, or activities in existing facilities accessible as the need arises and in a timely manner.
- Standards for new construction and alterations apply regardless of the number of persons with disabilities.



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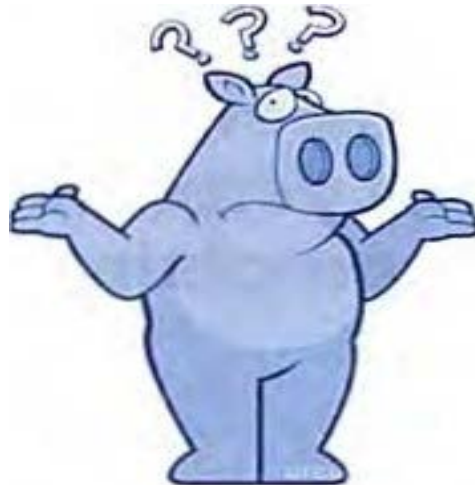
Charter Schools

- Federal civil rights laws that apply to public schools **also apply** to charter schools.
- These laws extend to all operations of a charter school, including, but not limited to:
 - ✓ Recruitment,
 - ✓ Admissions,
 - ✓ Academics,
 - ✓ Educational services and testing
 - ✓ School climate (including prevention of harassment), and
 - ✓ Accessible buildings and technology.



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QUESTIONS?



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