



EDUCATION & TITLE IX

TITLE IX REQUIRES SCHOOLS TO ADDRESS SEXUAL VIOLENCE

Title IX requires schools to address sexual violence promptly, thoroughly and fairly, regardless of whether an incident is also reported to the police. Even if a sexual assault occurs off-campus and is not connected to a school-sponsored activity, the school must ensure that it doesn't interfere with a student's ability to benefit from his or her education or create a hostile environment.¹

Title IX protects all students, regardless of sex, sexual orientation, gender identity, race or national origin, age, disability or undocumented status.

Grievance Process

- **Title IX Coordinator:** Every school must designate at least one employee as the Title IX coordinator and make sure that everyone knows how to contact this person, who is responsible for helping the school comply with all of Title IX's requirements.
- **Training:** The Title IX Coordinator, staff, and students should be trained about healthy relationships; consent and what constitutes sexual assault; bystander intervention; where students can get counseling, medical help, and other services; and how to respond appropriately to reports of sexual assault.
- **Complaint Procedures:** Schools cannot discourage anyone from reporting an assault and must have a process in place for addressing complaints.
 - Schools must let everyone know how and where to file complaints and make sure the information is easy to understand and widely distributed.
 - Schools should have reasonably prompt timeframes for the major stages of the complaint process and

publicly specify (1) the time it will take to conduct a full investigation of the complaint; (2) the time by which it will inform both parties of the outcome; and (3) the time in which to appeal (if applicable).

- The grievance process must apply equally to all students—the school cannot have a separate process for student athletes, for example.

Confidentiality

- Schools should tell students where they can go to talk to someone confidentially and receive services such as advocacy, counseling or academic support.
- Schools should explain the reporting obligations of all employees so that students know when reporting will trigger an investigation.
- Whenever possible, schools should obtain a student's consent before beginning an investigation and to protect students' privacy and safety should only disclose information to those involved in responding to the incident.
- If a student reports an assault to someone who has a duty to report but wants to keep it confidential, the school must balance this request against its obligation to provide a safe, non-discriminatory environment for all students. If confidentiality cannot be maintained, the school must take ongoing steps to protect the student and must work with him or her to create a safety plan. The school may not require a complainant to participate in the investigation or disciplinary proceeding.

No Retaliation

- Schools may not retaliate against anyone for reporting a Title IX violation. Schools should tell complainants and witnesses that Title IX prohibits retaliation and that school officials will take steps to prevent retaliation and address it if it occurs.



Prompt, Thorough and Equitable Investigation

- After learning about a sexual assault, a school must immediately take action to protect the victim by explaining the person's Title IX rights, including the right to file a complaint with the school or the police.
- A school must immediately investigate any sexual assault of which it is aware to determine what happened, provide services and accommodations to the victim, ensure that there is no retaliation or harassment during the investigation, and make a finding within 60 days or less unless there is a reason for the investigation to take longer.
- When conducting an investigation, both the complainant and respondent must have an equal opportunity to present witnesses and evidence and equal access to information that will be used to make a finding or at any hearing.
 - The complainant cannot be forced to mediate a case of sexual assault.
 - If advisors or lawyers are allowed to participate at a hearing, both parties must be permitted to have them.
 - Both parties must have an equal opportunity to appeal the decision.

- The school must use the preponderance of the evidence standard, meaning that it must determine whether it is more likely than not (51% likely) that the allegations are true.
- The school should provide written notice to both parties of the determination and outcome.

Interim Measures

- Even before any investigation, a school must offer immediate help to the complainant, such as the option to change classes, dorms or transportation to avoid coming into contact with the assailant. Schools must minimize the burden on the complainant when providing such interim accommodations.

Criminal Investigation

- Even if the police do not have enough evidence to bring criminal charges, a sexual assault may still violate Title IX.
- If there is a simultaneous criminal investigation stemming from a sexual assault, a school must still promptly conduct its own investigation under Title IX (at most a school may need to delay fact-finding until the police have gathered their evidence). This is because the criminal process is entirely separate and the school's obligation is to ensure a school environment free of discrimination.

Anyone who believes a school is not in compliance with Title IX can file a complaint with the U.S. Department of Education's Office for Civil Rights or file a lawsuit in federal court. See [How to File a Title IX Sexual Harassment or Assault Complaint with the U.S. Department of Education](#). For help or information, please contact the National Women's Law Center at info@nwlc.org or (202) 588-5180.

¹ See United States Department of Education, Office for Civil Rights, *Dear Colleague Letter: Sexual Violence* (April 4, 2011), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; United States Department of Education, Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence* (April 29, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

