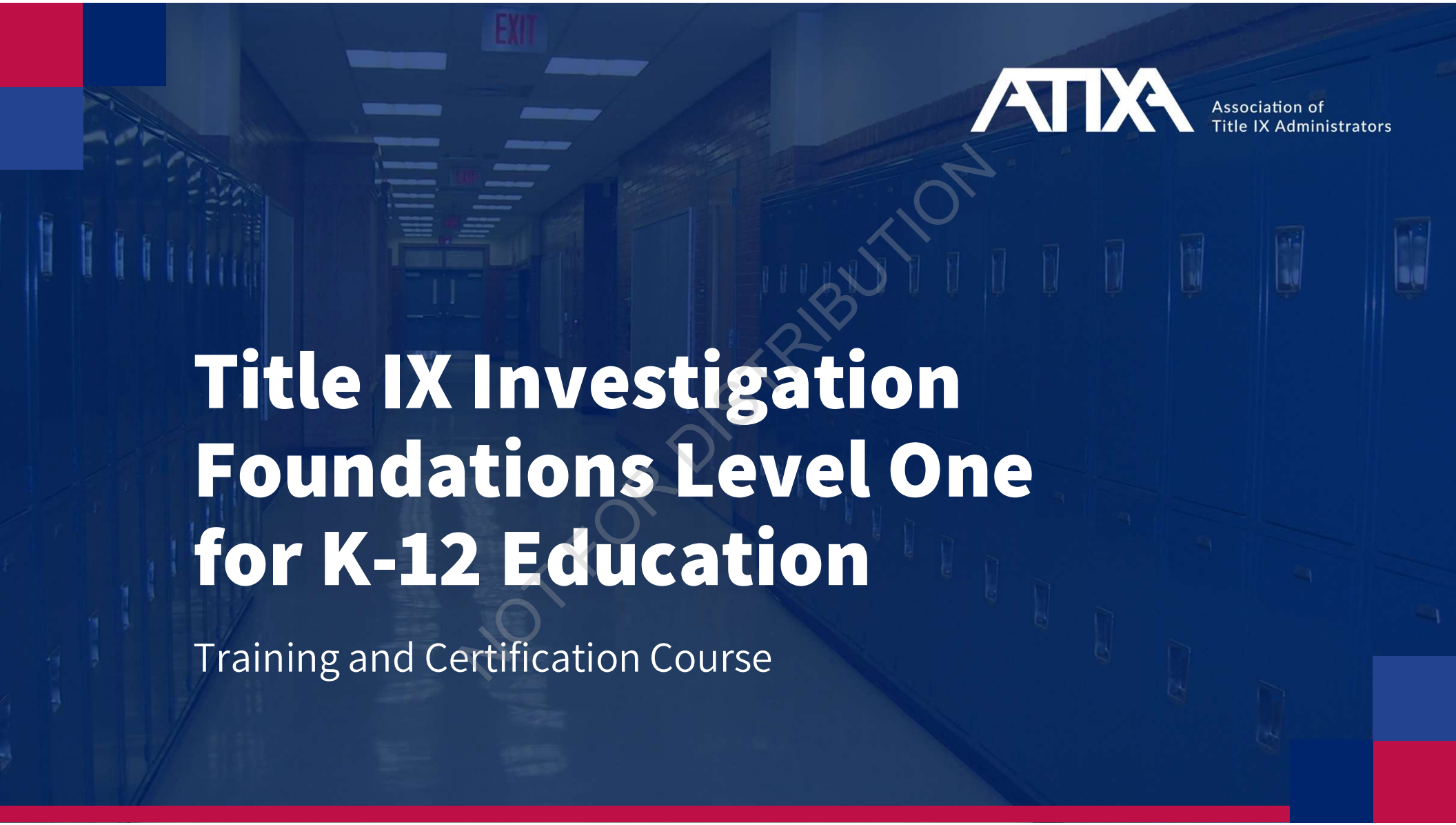


Association of
Title IX Administrators

NOT FOR DISTRIBUTION

Title IX Investigation Foundations Level One for K-12 Education

Training and Certification Course

WELCOME!

- Please log in to your ATIXA Event Lobby to access the training slides, supplemental materials, and to log your attendance.
- The ATIXA Event Lobby can be accessed by scanning the QR code or by visiting **www.atixa.org/atixa-event-lobby**.
- You will be asked to enter your registration email to access the Event Lobby.
- Links for any applicable training evaluations and learning assessments are also provided in the ATIXA Event Lobby.
- If you have not registered for this training, an event will not show on your Lobby. Please email **events@atixa.org** or engage the ATIXA website chat app to inquire ASAP.

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

NOT FOR DISTRIBUTION

Any advice or opinion provided during this training, either privately or to the entire group, is **never** to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

Content Advisory

The content and discussion in this training will necessarily engage with sexual harassment, sex discrimination, violence, and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Course Introduction



This course introduces the core tenets for investigating allegations of sex discrimination and sexual harassment within a school or district's education program and activities.



Practitioners will learn the components of the investigation process, investigation skills, and best practices for conducting fair and impartial investigations.



Our goal is to provide an in-depth exploration of investigations and how to practically apply the concepts to your role within the Title IX Grievance Process.

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

2024 Title IX Regulations Vacated

All federal funding recipients are now subject to the 2020 Title IX Regulations

- **January 9, 2025:** a federal district court in Kentucky vacated the 2024 Title IX Regulations in their entirety; other federal courts have followed suit
  - The 2024 Title IX Regulations are now vacated (null and void) and **not** in effect for **any** state, institution, or school
- Institutions must revert to **2020-compliant** policies and procedures for Title IX cases
  - Ensure compliance with all 1975 and 2020 regulatory requirements
  - Revisit any complaints decided under 2024 regulations to ensure compliance

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Department of Education (ED) Updates

- Department changes include:
  - Significant staffing reductions, but increased focus in some areas
  - Closure of 7 of 12 OCR regional offices
  - Federal funding and oversight shifts
- Executive Order (EO): *Improving Education Outcomes by Empowering Parents, States, and Communities* (3/20/25)
  - Directed the Secretary of Education to "facilitate closure of the Department" and "return authority to the States and local communities"
- Civil Rights enforcement remains in ED's Office for Civil Rights (OCR), but other agencies (e.g., Health and Human Services (HHS) and Department of Justice (DOJ)) appear to be ramping up enforcement in certain areas
- Increased focus on Title VI

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Dear Colleague Letter (02/04/25)

ED released a Title IX-focused Dear Colleague Letter (DCL) on 02/04/25

- OCR will enforce the 2020 Regulations, not 2024
- Institutions must immediately shift open investigations to use 2020 Regulations
- OCR will enforce *Defending Women from Gender Ideology* EO
  - Quoting the EO, OCR will:
    - "'enforce all sex-protective laws to promote [the] reality' that there are 'two sexes, male and female,' and that '[t]hese sexes are not changeable and are grounded in fundamental and incontrovertible reality.'"

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Executive Order re: Sex and Gender

***Defending Women from Gender Ideology Extremism and restoring Biological Truth to the Federal Government* (01/20/25)**

- Defines sex as a binary concept – man or woman
- All agencies must ensure that intimate spaces are designated by sex, not gender identity
- Limited *Bostock v. Clayton County*'s holding, says it only applies to Title VII
  - Dept of Justice issued guidance on 02/12/25 that *Bostock* does not apply to Title IX
- Prohibits federal funds and grants from promoting gender ideology
- Revokes all Biden administration EOs addressing gender identity
- Directs OCR to prioritize investigations/litigation to enforce rights and freedoms based on the binary nature of sex
- Does not address sexual orientation

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Executive Order re: Gender and Athletics

***Keeping Men Out of Women's Sports* (02/05/25)**

- Prohibits transgender women from playing women's sports
  - Cited as necessary for "safety, fairness, dignity, and truth"
- Applies definitions from *Defending Women from Gender Ideology* EO
- Threatens withdrawal of federal funds
- Will use Title IX to enforce on a prioritized basis
- Seeks to eliminate Olympic competition based on gender identity or testosterone reduction
- Does not prohibit transgender men from participation
- Subject of active and rapid enforcement by Federal government

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Rescinded Prior Guidance

Rescinds all guidance documents inconsistent with the EO or subsequent guidance including:

- White House Toolkit on Transgender Equality
- 2024 Title IX Regulations: Pointers for Implementation
- ED Toolkit: Creating Inclusive & Nondiscriminatory School Environments for LGBTQ Students
- Supporting Intersex Students
- Supporting Transgender Youth in School
- Letter of Educators on Title IX's 49th Anniversary
- Confronting LGBTQ Harassment in Schools
- Enforcement of Title IX - Based on Sexual Orientation and Gender Identity in light of *Bostock v. Clayton County*
- AG's memorandum "Application of *Bostock v. Clayton County* to Title IX"
- EEOC's "Enforcement Guidance on Harassment in the Workplace"

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Review: Title IX Statute

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Title IX

"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 educational program or activity receiving federal financial assistance."

20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Title IX Grievance Process Overview

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Formal Grievance Process Overview

1 INCIDENT

- Complaint/ Notice to Title IX Coordinator (TIXC)

2 INITIAL ASSESSMENT

- Formal Complaint
- Jurisdiction
- Dismissal
- Supportive Measures
- Emergency Removal
- Referral to Another Process
- Informal/Formal Resolution

3 FORMAL INVESTIGATION

- NOIA
- Interviews
- Evidence Collection
- Draft Report
- Share Draft & Evidence
- Review/ Comment
- Final Report

4 DECISION-MAKING

- Questioning
- Credibility Assessment
- Determination & Rationale
- Sanctions
- Remedies
- Option for Live Hearings

5 APPEAL

- Appeal Grounds
- Determination & Rationale

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Prompt and Fair Resolution

Prompt Resolution

- Complete without undue delay
- Title IX regulations do not define "prompt"
  - Ideally 30 business days in K-12
  - 60 business days as an outer limit
  - Investigations vary widely in complexity and pacing
- Grievance process may take longer than expected
  - Anticipate, mitigate, and document delays
  - Communicate with parties regarding delays

Fair Resolution

- Treat all parties fairly
- Ensure that all parties have opportunity to fully participate

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Parties' Rights

- Be accompanied by Advisor of their choice
- Discuss the allegations under investigation without restriction
- Gather and present relevant evidence without restriction
- Inspect and review directly related evidence and investigation report
- Present witnesses
- Present inculpatory and exculpatory evidence
- Receive written detailed Notice of Investigation and Allegations (NOIA)
  - Must include information about the school/district's Title IX Grievance Process
- Receive written notice of the date, time, location, participants, and purpose of interviews or meetings, with sufficient time to prepare

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Parent/Guardian Rights

- **Access** their student's education records, including Title IX complaint file
- **Attend** all interviews/meetings/hearings with their student, regardless of whether they are serving as the student's Advisor
- **Make decisions** throughout the Title IX Grievance Process on behalf of their student, such as whether to pursue Informal Resolution
- **Pursue Title IX Grievance Process** on behalf of their student
- **Seek supportive measures** on behalf of their student



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Students with Disabilities

- If a party is a student with a disability, TIXC **should consult** with one or more members of the student's Individualized Education Program (IEP) team or Section 504 of the Rehabilitation Act (504) team
  - This consultation will determine how to comply with the IEP or 504 plan throughout the Title IX Grievance Process, including the investigation
- The TIXC should communicate with the Investigator to ensure that any coordination needed at the investigation stage is addressed
  - This may include:
    - Additional people present for meetings and interviews
    - Additional time to respond to any posed questions
    - Other appropriate steps to ensure compliance with Individuals with Disabilities Education Act (IDEA) and 504

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

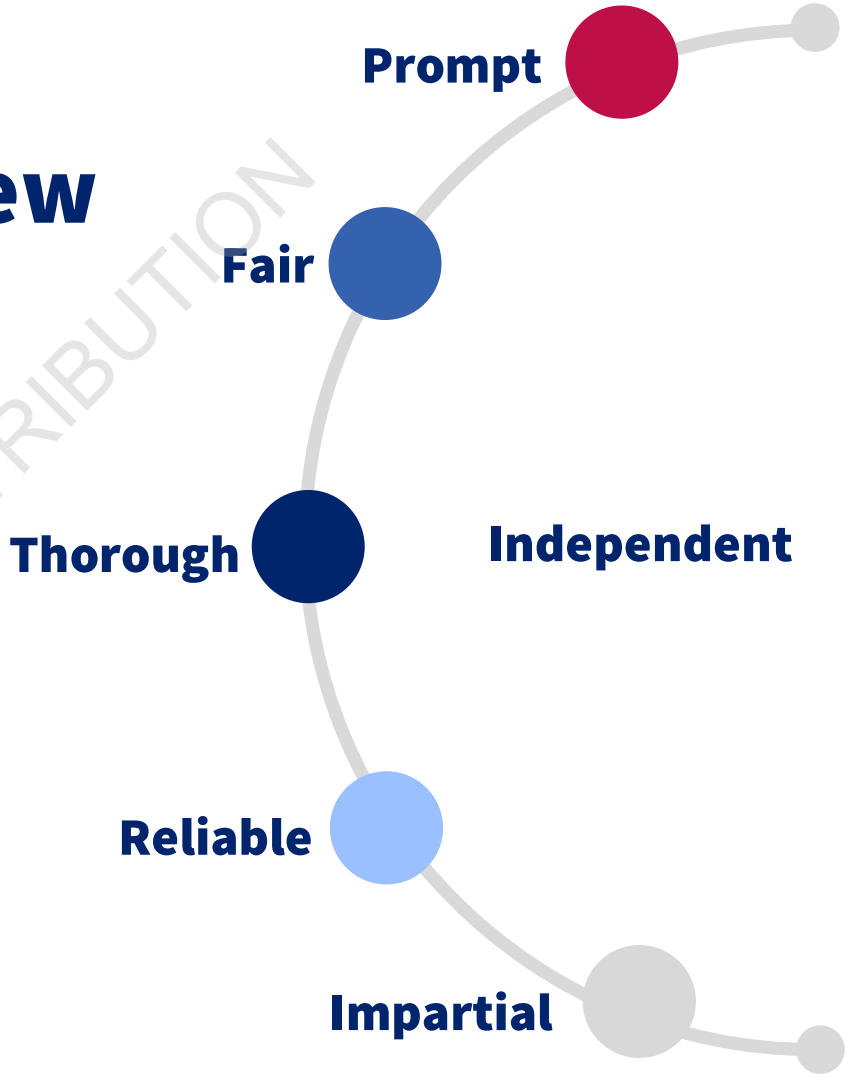
Investigation Process Overview

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Civil Rights Investigations Overview

- Title IX investigations differ greatly from other investigation practices commonly used in K-12 environments
- Investigations focus on gathering all available and relevant information
- The school/district is responsible for gathering evidence—not the parties
- Respondent is presumed "not responsible"



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Oversight

TIXC responsibilities:

- Appoint and train Investigators
- Conduct intake and initial assessment of report/complaint
- Ensure timeline compliance
- Maintain records
- Provide ongoing supportive measures for parties
- Review investigative reports
- Serve as primary point of contact for parties
- Strategize and consult with Investigators



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Who Should Investigate?

- Investigator(s) may not serve as the Decision-maker(s) for the same complaint
- School/District will determine the staffing model, including one Investigator or two

Full-Time Investigator(s)

Investigator Pool

Coordinator as Investigator

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigator Role

- Strategize with TIXC
- Remain impartial and free of bias
- Gather all available and relevant information
- Interview the parties and witnesses
- Create an investigation report that fairly summarizes all relevant details
- Share the evidence and investigation report with the parties
- Maintain accurate and thorough investigation records and notes



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Bias and Conflict of Interest

- Title IX Investigators have no “side” other than the **integrity of the process**
- Title IX regulations **prohibit conflict of interest or bias** against parties generally, an individual party, or the substance of the complaint
- Investigators identifying a potential conflict of interest or bias should **immediately notify** and disclose the information to the TIXC



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Required Training for Investigators

- Definition of **Sexual Harassment**
- **Scope** of the school/district's education program or activity
- Conducting a **fair and thorough investigation** and **Title IX Grievance Process**
- **Serving impartially**, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- **Relevance of questions and evidence**; including restrictions on questions and evidence about the Complainant's sexual predisposition or prior sexual behavior
- Creating an **investigation report** that fairly summarizes relevant evidence

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Phases

- Title IX investigations may examine allegations of sex discrimination, sexual harassment, or retaliation
- ATIXA's recommended investigation process is comprised of 10 steps over three phases:
  - Pre-investigation
  - Investigation
  - Post-investigation
- Not all phases involve the Investigator



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Pre-Investigation

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Steps

1. **Receive notice/complaint**
2. **Initial assessment & jurisdiction determination**
3. **Determine basis for investigation**
4. Notice of investigation and allegations (NOIA)
5. Establish investigation strategy
6. Formal comprehensive investigation
7. Draft investigation report
8. TIXC reviews draft report & evidence
9. Parties review draft report & evidence
10. Final investigation report



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Notice/Complaint

- School/District receives a report, knowledge, or Formal Complaint of alleged sex discrimination or sexual harassment
  - TIXC is point person to receive reports and Formal Complaints, including referrals from school/district employees
- **Report**: Any information that indicates a potential Title IX policy violation
- **Formal Complaint**: A written request for the school/district to initiate its Formal Title IX Grievance Process
  - Signed by the Complainant (or parents/guardians)
  - Could be signed by the TIXC

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Initial Assessment and Jurisdiction Determination

TIXC or designee will perform several steps, including:

- Outreach and Intake to potential Complainant (usually with parents/guardians)
- Complete jurisdictional assessment
- Sign a Formal Complaint (if applicable)
  - Pattern, Predation, Threat, Violence, Weapons, Minors, Employee Respondent, Complainant not P/ATP
- Offer and coordinate supportive measures
- Engage Emergency Removal or Administrative Leave (if applicable)
- Enact complaint Dismissal procedures (if applicable)
- If requested/appropriate, coordinate Informal Resolution process (if applicable)

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Bases and Scope

TIXC determines the investigation basis and scope

- **Scope** refers to the allegations, timeframes, and parties subject to the investigation
  - If scope needs to be adjusted during the process, Investigator should consult with the TIXC
- **Three possible bases for civil rights investigation:**
  - **Incident:** a specific incident or period
    - May involve one or multiple alleged violations
  - **Pattern:** repetitive or similar behaviors or targets by the same Respondent over a period
    - Tend to involve multiple Complainants
  - **Climate/Culture:** discriminatory policies, processes, and environments
    - May have no identifiable Respondent

NOT FOR DISTRIBUTION

ATIXA © 2025 Association of Title IX Administrators

Formal Investigation

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation

1

INCIDENT

- Complaint/ Notice to TIXC

2

INITIAL ASSESSMENT

- Formal Complaint
- Jurisdiction
- Dismissal
- Supportive Measures
- Emergency Removal
- Referral to Another Process
- Informal/Formal Resolution

3

FORMAL INVESTIGATION

- NOIA
- Interviews Evidence Collection
- Draft Report
- Share Draft & Evidence
- Review/ Comment
- Final Report

4

DECISION-MAKING

- Questioning
- Credibility Assessment
- Determination & Rationale
- Sanctions
- Remedies
- Option for Live Hearings

5

APPEAL

- Appeal Grounds
- Determination & Rationale

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Steps

1. Receive notice/complaint
2. Initial assessment & Jurisdiction determination
3. Determine basis for investigation
4. **Notice of investigation and allegations (NOIA)**
5. **Establish investigation strategy**
6. **Formal comprehensive investigation**
7. **Draft investigation report**
8. **TIXC draft report & evidence review**
9. **Parties draft report & evidence review**
10. **Final investigation report**



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Notice of Investigation and Allegations

- The written NOIA is **sent to all parties simultaneously**
- **NOIA includes**:
  - Notice of the allegations and known details, such as identities or the parties
  - A description of the alleged conduct and relevant policy provisions
  - Information about grievance procedures
  - Presumption that Respondent is not responsible
  - Supportive measure available
  - The rights of the parties
  - Reference to any code of conduct provisions (student or employee) regarding consequences for knowingly providing false statements
  - Statement prohibiting retaliation

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Review:
Title IX Scope and Definitions

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Title IX Scope

Title IX

Sex Discrimination

- Disparate Treatment
- Disparate Impact

Retaliation

Sexual Harassment*

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

* 2020 Regs only apply to Sexual Harassment

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Sex Discrimination

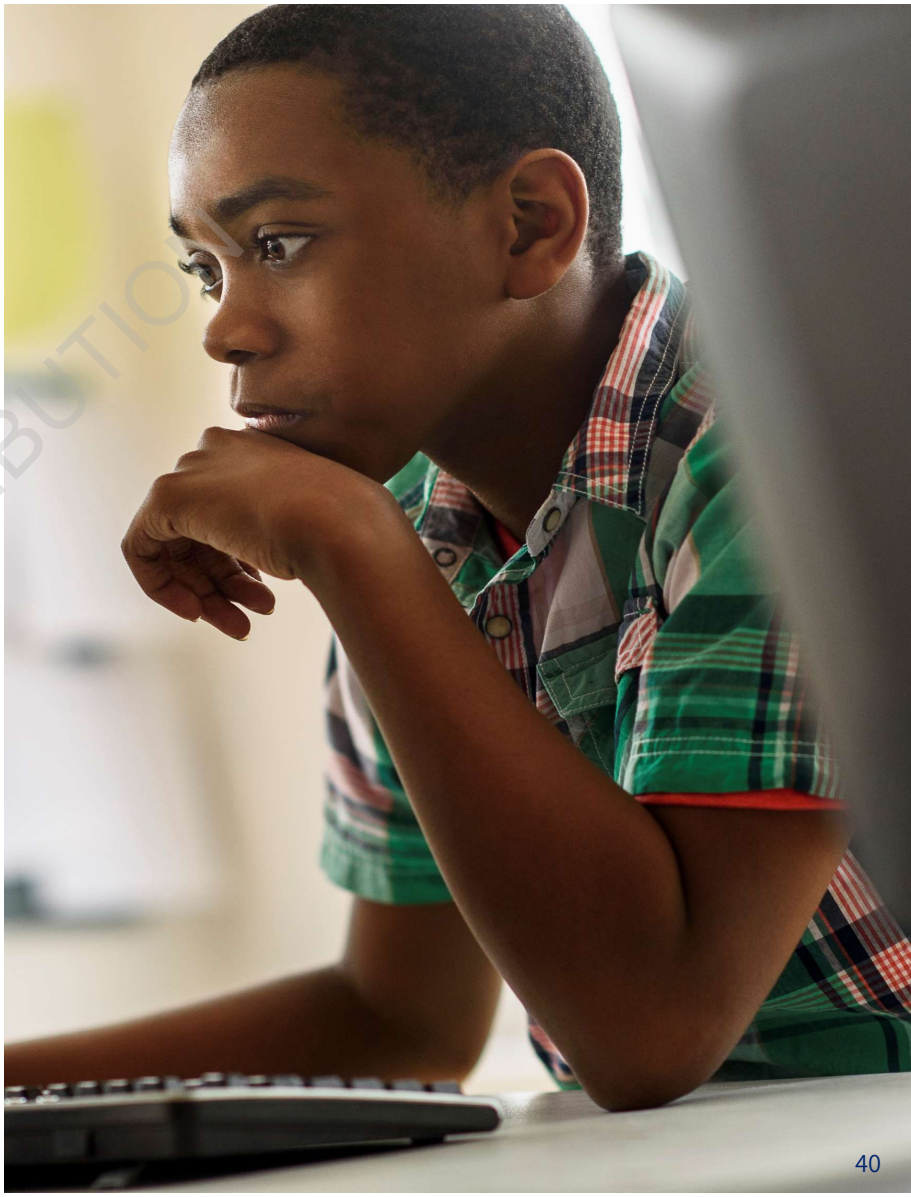
- **Sex Discrimination** encompasses:
  - Unfair treatment based on sex
  - Exclusion from participating on the basis of sex
- **Disparate Treatment:** occurs when a school/district policy, practice, or procedure (or an agent thereof) **intentionally** discriminates
- **Disparate Impact:** occurs when a school/district policy, practice, or procedure (or an agent thereof) **unintentionally** discriminates
  - A policy may be intended to be neutral as written, but it may be applied in a discriminatory manner or in a way that has a discriminatory effect

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Sexual Harassment Definitions

- **Hostile Environment**
  - 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 school/district's education program or activity
- **Sexual Assault** includes:
  - Rape
  - Fondling
  - Incest
  - Statutory Rape
  - Sodomy
  - Sexual Assault with an Object



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

ATIXA Model Policy Definitions

- Consent
- Retaliation
- Common additional offenses
  - Sexual Exploitation
  - Harm/Endangerment
  - Intimidation
  - Hazing
  - Bullying



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Strategy

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Establish Investigation Strategy

Investigator(s) consult with TIXC to strategize and plan the investigation:

- Elements of the specific policy provision(s) alleged to have been violated
  - Investigators are looking for evidence that speaks to each element
- Preliminary undisputed and disputed facts and their significance
- Initial witnesses and interview order
- Other types of possible evidence and the plan to acquire such evidence
- Anticipated obstacles and obstructions
- Working investigation timeline

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Establish an Investigation Strategy

Planning considerations:

- Process delays
- Working with parent/guardians and Advisors
- Coordination with law enforcement (if applicable)
- Interview sequencing
- Evidence collection
- Counter-complaints
- Sharing information with parties and witnesses during the investigation



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Process Delays

- Investigations must be completed within a reasonably prompt timeframe; avoiding undue delays
  - Expectation to proceed during school breaks, including summer
  - Consult with TIXC if circumstances cause more than a short process delay
- Provide parties with written notice and rationale for any delays
- Parties may request reasonable extensions on a case-by-case basis
  - Grant or deny extensions equitably
  - Extensions must be documented

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Working with Advisors

- Parties have the right to be accompanied by an Advisor of their choice as well as a parent/guardian
- "Of choice" truly means anyone
- Investigators may establish participation ground rules; must be applied equitably
- Parties may request an Advisor be provided by the school/district for the purposes of a live hearing (if offered)
  - Schools/districts may choose to appoint an Advisor earlier in process
- Advisors may ask questions of the other party and any witnesses on behalf of the party they advise through the Investigator or Decision-maker



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Coordinating with Law Enforcement (LE)

- Sexual harassment incidents may also give rise to criminal law allegations under state laws
- LE may notify school/district of complaint, or school employee may report incident to LE
- Criminal investigations do not relieve school/district of its duty to respond promptly and effectively
- Criminal investigation cannot substitute for the Title IX investigation
  - Different laws/policies and a different standard of evidence
- TIXC communicates with LE in circumstances with concurrent responses, to the extent permitted by law



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Interview Sequencing

- Conduct interviews as promptly as possible to capture fresh recollections
  - Do not interview Respondent before providing the NOIA
- Identify an initial witness list and solicit additional witness suggestions from parties and other witnesses
- Investigator retains discretion to determine whether a suggested witness has relevant information
  - When unsure, err on the side of conducting the interview; it can always be excluded later if it proves to not be relevant
- When addressing student witnesses, consider getting parent/guardian permission (especially if required by state law or school/district policy), because the parties will have access to interview summary

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Evidence Collection

- Burden to gather evidence is the school/district's responsibility
- Active process to gather evidence
- Identify potential sources of information
- Document efforts to gather, even when not successful



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Information Sharing

- Information sharing practices must **balance transparency, privacy, and strategy**, as well as the parties' rights
- Witnesses may have limited or no knowledge about the complaint itself
- Witnesses may or may not know the parties or other witnesses
- Some information sharing will be necessary
- Parties will have access to all relevant and directly related information at the conclusion of the investigation



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Counter-Complaints

- Respondents may file a **counter-complaint** of sex discrimination or sexual harassment against the Complainant if there is Complainant conduct that they wish to report
- Reporting other alleged misconduct (e.g., drug dealing, academic misconduct) is not considered a counter-complaint
- May occur prior to, during, or after the investigation of the original complaint
- If a party mentions (even casually) discrimination or harassment that could serve as a basis for a counter-complaint, but it is unclear if they wish to make a complaint, clarify or have the TIXC contact them to clarify

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Activity: Parsing the Policy

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Ang and Becca

- Two sixth graders at Puckett Bay Middle School, Ang and Becca, are assigned tablemates for their Earth Science lab
- Ang requested to be reassigned to a new lab partner
- When the lab teacher asked the reason for the request, Ang shared the following:
  - For the past two weeks Becca has placed her hand on his thigh multiple times.
  - He has asked her to stop
  - She stops her attempts during that lab session but attempts to touch him again in subsequent labs
  - Additionally, Ang shared that yesterday when Ang was walking to pick up supplies at the front table, Becca reached over and grabbed his butt

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Definitions: Sexual Harassment

Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- **Sexual Assault, Fondling**:
  - The touching of the private body parts of the Complainant (buttocks, groin, breasts, genitals) of the Complainant by the Respondent, or
  - the Respondent's private body parts touching the Complainant, or
  - the Respondent causing the Complainant to touch the Respondent's or their own private body parts,
    - **For the purpose of sexual gratification**
    - Without the consent of the Complainant, including instances where the Complainant is incapable of giving consent, because of age **or** because of a temporary or permanent mental or physical incapacity.

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Skills and Questioning

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Pre-Interview Planning

- Do not conduct interviews prior to NOIA; avoid surprise interviews
  - Should have sufficient time to prepare
- Before scheduling interviews, consider
  - Location, scheduling constraints, participants, and preparation
- **Cannot mandate interview participation**
- It can be beneficial to conduct interviews in person, when possible, but videoconferences are common
- Always prepare initial questions in advance, but **remain flexible**

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Interviewing Skills

Investigators build and improve skills over time and with practice:

- Appropriate questioning
- Active listening
- Body language and non-verbal communication (use caution)
- Identifying gaps
- Seeking clarification



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Establish Rapport

GOAL: Interviewee trusts that Investigator is neutral and impartial

- Investigator(s) help set the tone for a productive interview
- Maintain professionalism
- Provide transparency about expectations and the process
- Balance neutrality with compassionate approach
- Ask questions in a straightforward, non-judgmental manner
- Follow up in a timely manner, if necessary
- Use a trauma-informed approach to working with all parties and witnesses

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Trauma-Informed Practices

Key principles of trauma-informed practice:

- Safety
- Trustworthiness and transparency
- Collaboration and mutuality
- Empowerment, voice, and choice
- Cultural, historical, and identity considerations

ATIXA Recommendation: Incorporate trauma-informed investigation and interviewing methods without compromising gathering credible, relevant evidence

- Trauma-informed practices should not significantly influence evidence evaluation

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

“The Spiel”

- Establishing rapport creates a conducive interview environment
- “The Spiel” helps an interviewee to understand the Investigator’s role and the process

- Investigator introduction and role
- Purpose of investigation
- Role of the Advisor
- Interview questions
- Notetaking practices
- Commitment to privacy
- Witness-specific information
- Post-interview steps
- Interview expectations
- Relevant policies
- Acknowledge difficulty
- Retaliation reminder

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Activity: Practicing Your Spiel

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Questioning Considerations

An interview is a conversation designed to elicit information in a non-accusatory manner

- Ask questions directly to the party; it is critical that they, not their parent/guardian or Advisor, answer
- Start with broad questions, but focus on timelines and details as well
- Explore all gaps in information; obtain answers to all questions
- Ask purposeful questions:
  - What do I need to know?
  - Why do I need to know it?
  - What is the best way to ask the question?

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Questioning Considerations, Cont.

- Use policy definitions to inform questions (e.g., if fondling, which hand was used?)
- Avoid unnecessary repetition or traumatic re-triggering, but gently get the details you need
- Choose or blend effective questioning strategies/methodologies (e.g., cognitive interviews)
- Be mindful age and use developmentally appropriate questioning techniques



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Questioning Tips

- Listen carefully
- Seek to clarify terms that have multiple meanings
  - “We were hanging out” or “She was acting weird”
- Avoid:
  - Accusatory or argumentative questions or tone (often in the form of leading)
  - Blaming questions
  - Confusing/compound questions
  - “Double-barreled” questions
  - Evaluative responses
  - Sanitizing language (use the terms used by the interviewee)

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Interview Challenges: Resistance, Reluctance, and Lying

- Offer a reminder of Investigator's role as a neutral fact-gatherer
- Maintain rapport and avoid accusation
  - "Help me understand…"
  - "I think I'm missing something…"
  - "Can you tell me more about that?"
- Use language mirroring
- Allow opportunity for interviewee to restate
- Review retaliation, amnesty policies (if applicable), expectation of truthfulness
- Avoid statements reflecting moral judgment

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Final Interview Questions

- "Is there anyone else that you think we should talk to?"
- "Are there any questions you expected that we didn't ask?"
- "Is there anything else you think we need to know?"
- What questions should I pose to other witnesses/parties?
- **FOR THE PARTIES**: "Are there any questions that you would like us to ask any other witness or the other party(ies)?"
- Document questions and answers provided
- Keep a running list of the questions suggested/requested by each party
  - Whether and when the question was asked
  - Rationale for not asking any question(s) based on irrelevance or impermissible evidence

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Interview Documentation and Review

- Maintain interview transcripts or written summaries
  - **Transcript**: word-for-word documentation of a recorded interview
  - **Summary**: Investigator's summation all information gathered during entire interview
    - May be several paragraphs or pages, depending on interview length
- Recording is an increasingly common practice
- Parties and witnesses should be invited to review their interview transcript/summary
  - Verify accuracy, clarify where needed, and provide additional information

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Evidence and Credibility

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Understanding Evidence

- Duty to collect and objectively evaluate all evidence that is relevant to the complaint
- **Evidence** is any kind of information presented to help determine what occurred
- **Relevant evidence** is evidence that tends to prove or disprove the underlying allegations
  - Inculpatory and exculpatory evidence
- **Directly related evidence** is connected to the complaint, but is neither inculpatory nor exculpatory



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Relevance

- Evidence is generally considered **relevant** when it helps determine:
  - Whether the Respondent violated policy, and/or
  - The credibility of any evidence, including a party or witness statement
- The Investigator initially evaluates relevance, but the DM ultimately decides
- All relevant evidence must be objectively evaluated and considered
  - **Inculpatory:** supports a finding of responsible
  - **Exculpatory:** supports a finding of not responsible
- In the decision-making phase, parties may dispute the Investigator's initial relevance determinations

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Types of Evidence

Documentary Evidence	Supportive writings or documents
Electronic Evidence	Photos, text messages, and videos
Real Evidence	Physical objects
Direct or Testimonial Evidence	Personal observation or experience
Circumstantial Evidence	Not eyewitness, but compelling
Hearsay Evidence	Statement from outside the interview presented as truthful
Character Evidence	Evidence of a person's character or character traits

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Privileged and Medical Information

The party must provide permission to obtain and/or include:

- Evidence protected under a legally recognized privilege
- Records made or maintained by:
  - Physician
  - Psychiatrist
  - Psychologist



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Rape Shield Provision

- Evidence of the **Complainant's sexual predisposition** is never relevant
- Evidence of the **Complainant's prior sexual behavior** is not relevant except:
  - If offered to prove that someone other than the Respondent committed the alleged conduct; or
  - If offered to prove consent with respect to prior consent with the Respondent
- Even if admitted/introduced by the Complainant
- Does not apply to Respondent's prior sexual predisposition or behavior

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

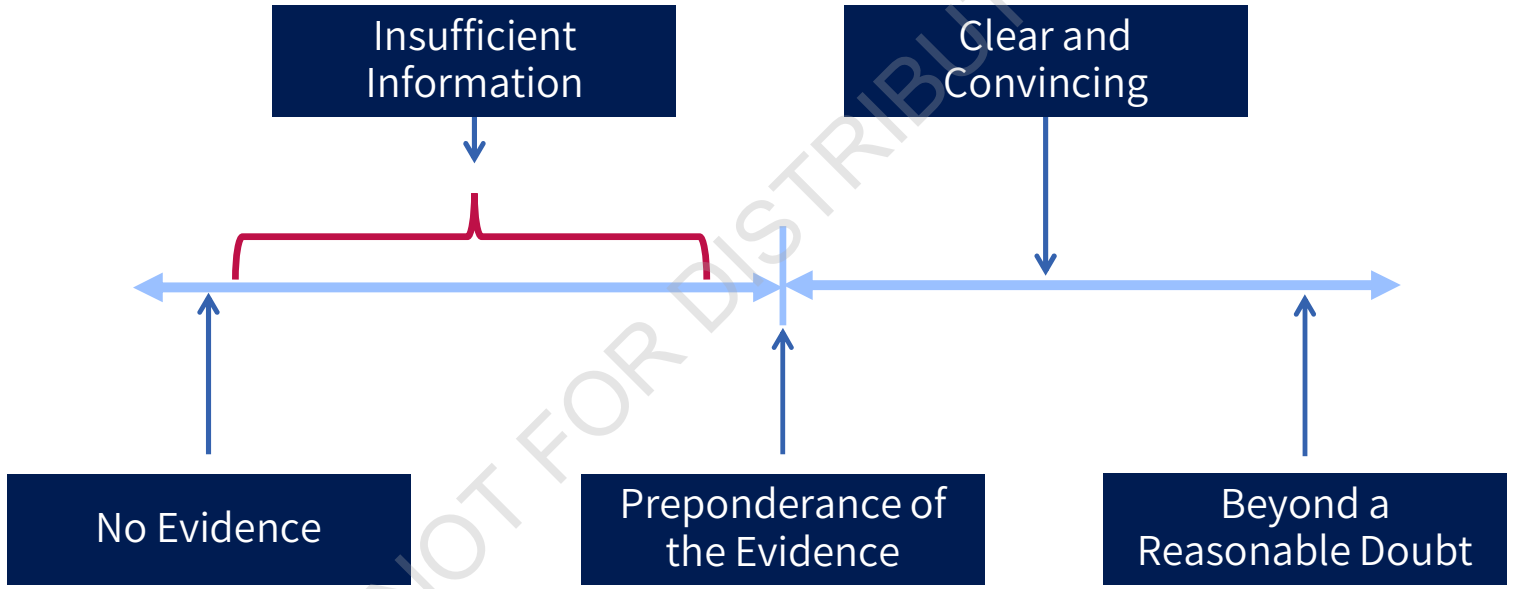
Evidence Authentication

- Not all evidence has the same degree of credibility
  - Less credible evidence may be less reliable evidence
- Investigator(s) should seek the **highest quality evidence** available
- Investigator(s) should try to **authenticate all evidence** provided
  - Check for possible fabrication of evidence
  - Corroborate information between witnesses
  - Try to obtain complete, rather than partial, records when possible
  - Test assertions to verify accuracy when possible
    - Example: “I don’t remember if I wore a condom, but the condom in my wallet is no longer there”

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Standard of Evidence



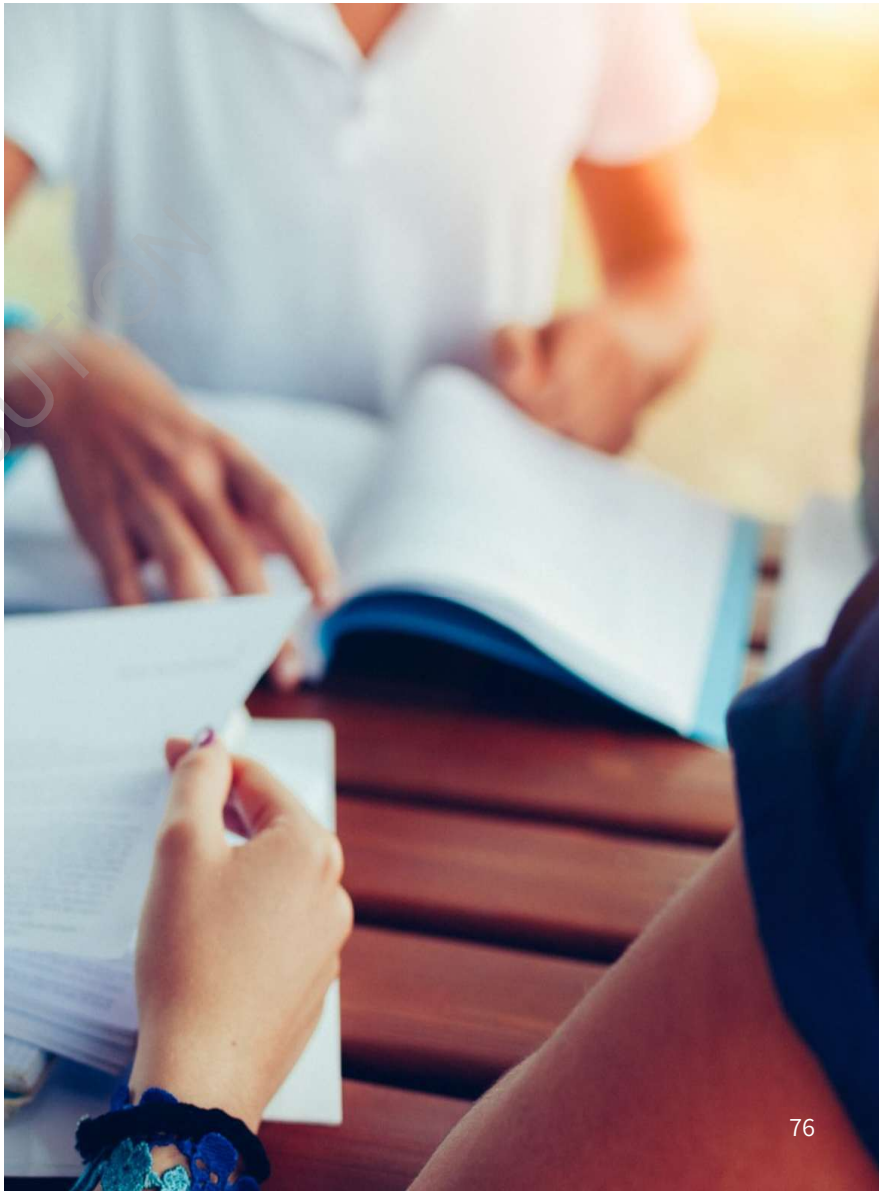
NOT FOR DISTRIBUTION

- **Preponderance of the Evidence** is the most common industry standard
- Standard of Evidence must be consistent for all Formal Complaints of sexual harassment

© 2025 Association of Title IX Administrators

Credibility

- **Credibility** is largely a function of corroboration and consistency
- **Credibility Assessment** involves evaluating the extent to which evidence is believable and reliable (accurate or truthful)
  - Refrain from focusing on irrelevant inaccuracies and inconsistencies
- **Note:** memory errors alone do not necessarily diminish witness credibility, nor does some evasion



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Credibility Factors

Corroboration

- Aligned testimony and/or physical evidence

Inherent Plausibility

- "Does this make sense?"
- Be careful of bias influencing sense of "logical"

Motive to Falsify

- Do they have a reason to lie?

Past Record

- Is there a history of similar behavior?

Demeanor

- Do they seem to be lying or telling the truth?



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Report

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Report Elements

- Title IX **requires a written investigation report** that fairly summarizes all relevant evidence and the investigation process
- **Comprehensive investigation report typically includes:**
  - Complaint and party information
  - Jurisdiction and scope
  - Applicable policies
  - Investigation timeline
  - Summary of evidence
  - Analysis: credibility assessment, disputed and non-disputed facts
  - Conclusion
  - Appendices
- Investigative report is typically between 5-25 pages

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Report Writing Considerations

- **ATIXA recommends Investigators write in third person and from a neutral, detached observer point of view**
  - Creates distance between the reader and the parties
    - Example:
      - I watched Complainant sob and tremble at the pain they felt during the interview **vs.**
      - Complainant stated that it was "very painful" to discuss the incident
- Investigator's writing can unintentionally reflect their own biases
  - Focus on information and evidence, not opinions or suppositions
  - Examine evidence in a neutral fashion, avoid emotional language, terms, moralization, etc.
  - Write so that the report is consistent in tone/format/voice no matter who writes it
- Templates can help maintain a neutral perspective regardless of Investigator

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Sensitive Information

- Offensive, triggering, or explicit language (e.g., slurs)
- Graphic images/videos
- Medical information, including test results
- Mental health information
- Chosen name vs. legal name



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Report Process



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Report Review

- TIXC and/or legal counsel reviews draft investigation report prior to providing it to the parties
- Reviewer(s) identifies gaps, logic leaps, typographical errors, and substantive issues
- Reviewer(s) should not rewrite any section of the report but can ask questions and provide suggestions
- Investigator should review and incorporate helpful edits and suggestions
- Schools/districts may elect to complete this review after the parties' review or have two separate TIXC/legal counsel reviews



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Parties' and Advisors' Review Draft Investigation Report

- Draft report and directly related evidence must:
  - Be sent to each party and Advisor in an electronic format or hard copy
  - Include evidence upon which the school/district does not intend to rely
  - Include exculpatory and inculpatory evidence
- Investigator must:
  - Allow 10 days for written response
  - Consider parties' feedback and incorporate where appropriate
    - Document rationale for not making recommended changes as appropriate

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Tips for Evidence File Sharing

- Use a secure file-sharing platform
  - Consider functional and time limit restrictions as appropriate for the school community and process
- Include a separate watermark for each party (parent/guardian/Advisor)
- Ensure the parties have a user-friendly method for providing feedback

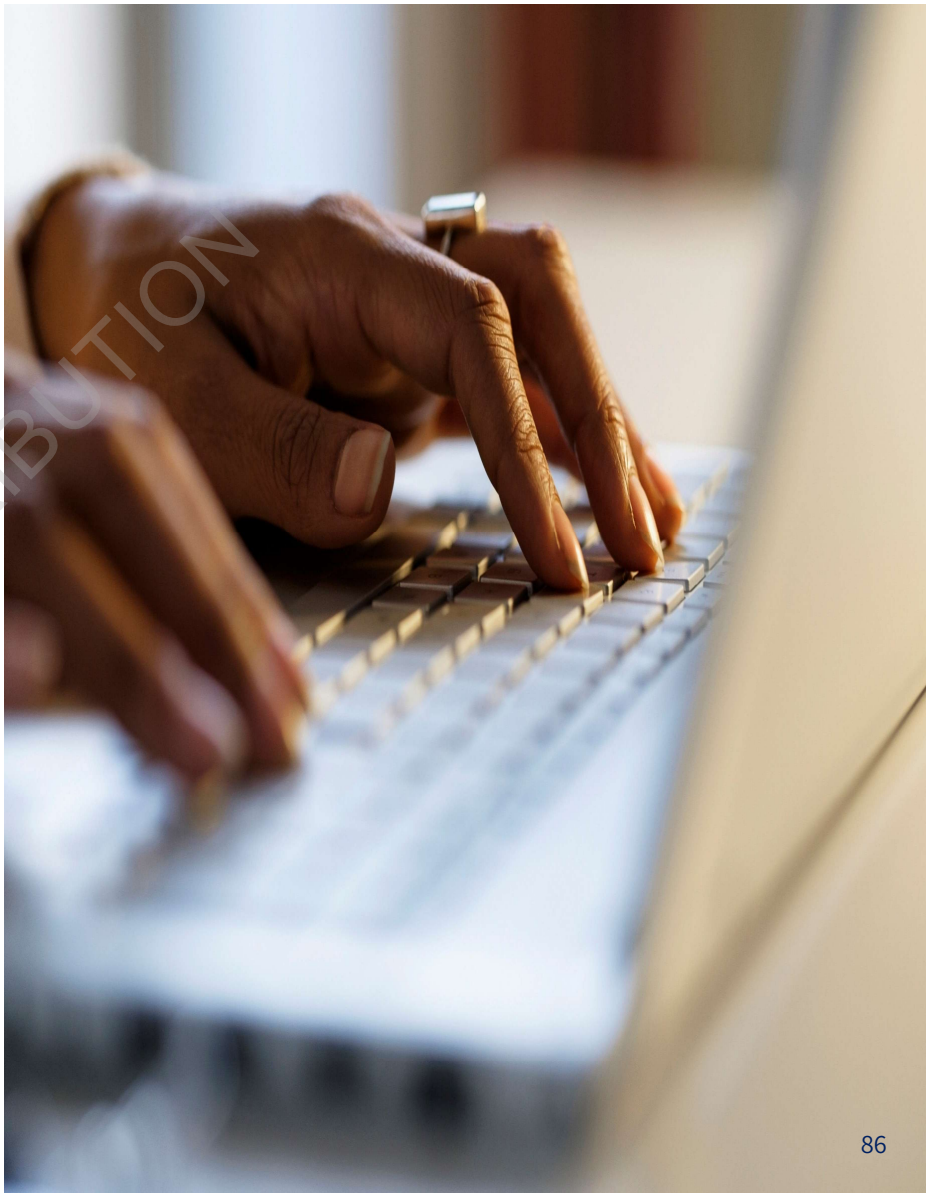


NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Final Investigation Report

- School/District determines the final investigation report review process
  - Once finalized, the investigation report is distributed simultaneously to the parties (parents/guardians) and their Advisor(s)
  - TIXC provides the report to the DM(s)
- Parties and Advisors will be provided with the final investigation report for review at least 10 days prior to the DM making a final determination



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Recordkeeping

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation File

- Investigator is responsible for developing and maintaining an **investigation file** throughout the duration of the investigation
  - Copies of the policies and procedures in place at the time of the incident(s) and at the time of the investigation
  - Original NOIA and any subsequent NOIA updates
  - For each party and witness include:
    - Verified interview transcripts
    - Associated evidence (e.g., screenshots, written statements)
    - Correspondence with the Investigator(s)
  - Collected evidence and evidence log

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation File

- Investigation file should also contain:
  - Background information (education, employment, etc.)
  - Witness flowcharts
  - Contact Log
  - Investigator notes
  - Timelines for incident and investigation
  - Investigation Report
- Investigation file becomes part of the **comprehensive complaint file**
- Title IX-related records must be maintained for a minimum of **seven (7) years**

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Contact Log

- All forms of contact with any party, witness, or third party regarding the complaint or related to it
- Date, time, method of contact, topics discussed, any decisions, and any agreed upon action steps for each interaction related to the Complaint

Date	Time	Contact	Type	Notes	Follow-up/ Resolution
1/12/25	1:00 PM	Sam Smith	Phone	Discussed getting emails from IT	Received emails from IT on 1/16/25
1/12/25	2:00 PM	Sally Harris	Email	Interview Scheduling Request	Interview scheduled for 1/15/25
1/15/25	3:00 PM	Sally Harris	In Person	Investigation Interview	Send transcript for verification

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Evidence Log

- All evidence gathered with:
  - Description
  - Date of receipt
  - Source
  - Method of receipt
- Any evidence verification/authentication information



NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Evidence Log Example

Date	Source	Method of Receipt	Type	Description	Authentication
1/10/25	Sam Smith	Email	Security video footage; USB drive	Elevator video footage from 9:10 – 10:10 PM on 12/10/24	Closed circuit from IT
1/11/25	Sally Harris	Social Media Screenshot	Social Media Screenshot	Post made by Respondent at 9:22 PM on 12/10/24	
1/15/25	Sally Harris	In Person	Call Record	Phone call log from Complainant's cell phone carrier	Email with attachment from carrier to Complainant

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Investigation Timeline

- Begin documenting an investigation timeline as soon as the investigation is assigned
- Comprehensive timeline should include:
  - Dates of all significant investigation steps
  - Dates of all meetings and interviews
  - Evidence collection and review periods
  - Report writing and review periods (if applicable)
- Often included in investigation report

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Post-Investigation: Decision-Making and Appeals

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Decision-making Overview

1

INCIDENT

- Complaint/ Notice to TIXC

2

INITIAL ASSESSMENT

- Formal Complaint
- Jurisdiction
- Dismissal
- Supportive Measures
- Emergency Removal
- Referral to Another Process
- Informal/Formal Resolution

3

FORMAL INVESTIGATION

- NOIA
- Interviews
- Evidence Collection
- Draft Report
- Share Draft & Evidence
- Review/ Comment
- Final Report

4

DECISION-MAKING

- Questioning
- Credibility Assessment
- Determination & Rationale
- Sanctions
- Remedies
- Option for Live Hearings

5

APPEAL

- Appeal Grounds
- Determination & Rationale

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Decision-making Process

- Separate DM(s) who is not the TIXC or Investigator for allegations of sexual harassment complaints; may use a different structure for sex discrimination complaints
- DM reviews full investigative report and evaluates all relevant evidence
  - Must consider both inculpatory and exculpatory evidence
  - Each allegation is considered individually for each Respondent
- K-12 Grievance Process requires the DM to facilitate either:
  - A live hearing (may depend on state law, legal precedent, school/district policy)
  - An opportunity for parties to submit written questions to the other party and any witnesses, receive written answers, and ask limited follow-up questions

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Determinations

- DM **applies the standard of evidence** to make determination
  - Standard of evidence options include:
    - **Preponderance of the evidence**
    - **Clear and convincing**
  - Standard of evidence must be consistent for all Formal Complaints of sexual harassment
- Investigator must be familiar with the standard of proof in school/district policy
- DM determines whether the Respondent violated school/district policy and drafts **written determination with rationale**
  - Reviewed by TIXC and/or legal counsel
  - Communicated to the Parties and Advisors simultaneously

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Appeals

1

INCIDENT

- Complaint/ Notice to TIXC

2

INITIAL ASSESSMENT

- Formal Complaint
- Jurisdiction
- Dismissal
- Supportive Measures
- Emergency Removal
- Referral to Another Process
- Informal/Formal Resolution

3

FORMAL INVESTIGATION

- NOIA
- Interviews
- Evidence Collection
- Draft Report
- Share Draft & Evidence
- Review/ Comment
- Final Report

4

DECISION-MAKING

- Questioning
- Credibility Assessment
- Determination & Rationale
- Sanctions
- Remedies
- Option for Live Hearings

5

APPEAL

- Appeal Grounds
- Determination & Rationale

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Appeal Grounds

Must offer appeals on the following grounds:

1. Procedural irregularity that affected the outcome of the matter
2. New evidence that was not reasonably available at the time of the determination that could affect the outcome of the matter
3. Conflict of interest or bias by the TIXC, Investigator, DM that affected the outcome of the matter

Schools/Districts have the discretion to add additional appeal grounds

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Appeal Decision-Maker

- Completes a written determination with rationale
- Determinations may include:
  - **Upholding** the original determination and sanctions (if any)
  - **Remanding** the complaint back to the DM for reconsideration or to the Investigator for further investigation
  - **Modifying** the original determination and/or sanctions (if any)
  - **Overturning** the determination (not recommended)
- Cannot be TIXC or serve in another role in the same complaint resolution

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

Questions?

NOT FOR DISTRIBUTION

© 2025 Association of Title IX Administrators

ALL ATIXA PROPRIETARY TRAINING MATERIALS ARE COVERED BY THE FOLLOWING LIMITED LICENSE AND COPYRIGHT.

By purchasing, receiving, and/or using ATIXA materials, you agree to accept this limited license and become a licensee of proprietary and copyrighted ATIXA-owned materials. The licensee accepts all terms and conditions of this license and agrees to abide by all provisions. No other rights are provided, and all other rights are reserved. These materials are proprietary and are licensed to the licensee only, for their use. This license permits the licensee to use the materials personally and/or internally to the licensee's organization for training purposes only.

If these materials are used to train Title IX personnel, they are subject to 34 C.F.R. Part 106. If you have lawfully obtained ATIXA materials by registering for ATIXA training, you are licensed to use the materials provided for that training.

34 C.F.R. 106.45(b)(10) (2020 Regulations) requires all training materials to be publicly posted on a Recipient's website. Licensees subject to the 2020 Title IX Regulations may download and post a PDF version of training materials for their completed training to their organizational website to comply with federal regulations. ATIXA will provide licensees with a link to their materials. That link, or links to the materials on that page only, may be posted to the licensee's website for purposes of permitting public access to the materials for review/inspection only.

You are not authorized to copy or adapt these materials without ATIXA's explicit written permission. No one may remove this license language from any version of ATIXA materials. Should any non-licensee post these materials to a public website, ATIXA will send a letter instructing the licensee to immediately remove the content from the public website upon penalty of copyright violation. These materials may not be used for any commercial purpose except by ATIXA.

NOT FOR DISTRIBUTION