


Working with Schools to Respond to Sexual Assault in Uncertain Times



Idaho Coalition
FOR
SEXUAL ASSAULT AND
STUDENT HARASSMENT

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 subject to discrimination under any educational program or activity receiving federal financial assistance.

-Title IX of the Education Amendments of 1972
Implementing regulations found at 34 CFR 106

Idaho Coalition
FOR
SEXUAL ASSAULT AND
STUDENT HARASSMENT

Impact on Access to Education

	1971-72		2001-02	
	Men	Women	Men	Women
Bachelor's degrees	500,590	368,683	538,000	744,000
Entering med. school	10,435	1,653	8,581	7,784
In law school	85,554	8,914	69,390	65,701

Idaho Coalition
FOR
SEXUAL ASSAULT AND
STUDENT HARASSMENT

What does Title IX Cover?

- Sex and gender-based harassment
 - Quid pro quo
 - Hostile environment


Idaho Coalition
FOR
SEXUAL ASSAULT AND
STUDENT HARASSMENT

What else?

- Athletics
- Admissions and recruitment
- Educational Programs and Activities
- Housing
- Facilities
- Access to Classes and Schools/Voc. Ed.
- Counseling/Guidance
- Financial Assistance
- Employment (student and otherwise)
- Health and insurance benefits
- Marital and parental status
- Textbooks and curricular material
- Standards for measuring skill or progress in PE

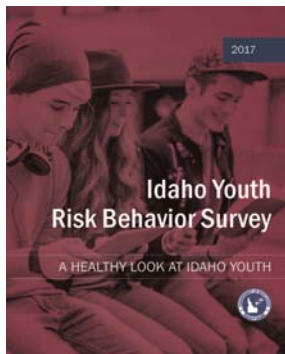
Idaho Coalition
FOR
SEXUAL ASSAULT AND
STUDENT HARASSMENT

Law of Equity




Equality doesn't mean Equity



Idaho Coalition
FOR
SEXUAL ASSAULT AND
STUDENT HARASSMENT



Scope in Idaho




Application of Title IX to Sexual Harassment and Misconduct

Sexual Harassment 2001 Guidance

- Sexual harassment may limit a student in the enjoyment of rights, privileges, advantages, or opportunities
- Defines some harassment as illegal discrimination
- Schools must take steps to rectify effects of discriminatory conduct



April 4, 2011–Dear Colleague Letter
(revoked fall 2017)

- Sexual violence = sexual harassment
- Specific steps institutions must take:
 1. **Have policy of non-discrimination**
 2. **Publish notice of policy**
 3. **Designate responsible employee**
 4. **Adopt grievance procedures**
- Remains a standard compliance model




Designate a Responsible Employee (Title IX Coordinator)

- Different at every institution
- Coordinate institution-wide compliance
 - Education
 - Investigations (based on written procedures)
 - Coordinate with law enforcement
 - Identify and remedy patterns
 - Audits



Adopt Grievance Procedures

- Different at every institution
- Provides for school response to unlawful discrimination
- Must ensure that institution investigate every complaint!
 - Policy vs. law
 - Little “i” vs. Big “I”
 - Prompt, thorough and equitable – process
- May include other information




When does a school have notice?

- School on notice when it knows or reasonably should know ...
 - Confidential v. non confidential
 - Law enforcement v. administration

Well at least getting it was fun ▼

Th



OP It really wasn't. It's not fun getting forced to suck a guy's dick.



Investigations after notice

- Broadly defined
- Required by law – why??

How do we work together?


Common implementation problems

- Misunderstanding of responsibility to investigate
- “Special parties” or situation
- Documentation
- Person does not want to make complaint
- Both parties claim intoxication
- Fair and mindful interim measures
- Trained decision makers
- One assault = hostile environment
- Conflicts

*Material from Victim Rights Law Center




Title IX Moving Forward: Uncertain Times

New Administrative Guidance

- Proposals that may change relationships:
 - Reduce duty to respond on some matters
 - Require actual knowledge
 - Evidentiary presumption in favor of Respondent
 - Mediation
 - Hearing model



Questions?

Annie Hightower
 Director of Law & Policy
 (208) 384-0419
 annie@engagingvoices.org

This project was supported by Grant No. 2017-WE-AX-0035 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

