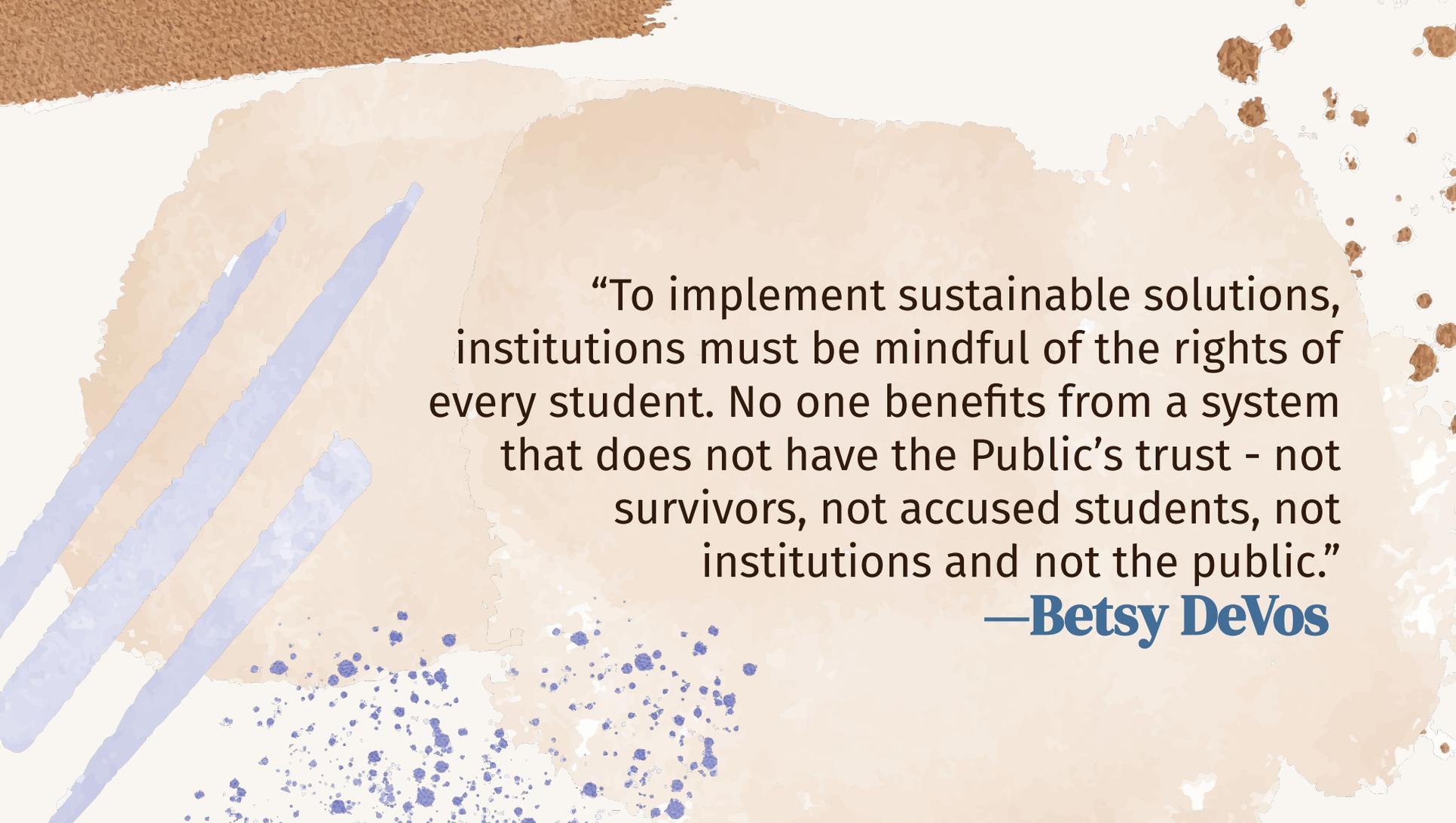


# **Title IX Training**

Rockingham County Schools 2022-23

# Goals for Today

- Provide an overview of Title IX Federal Law & Regulations
- Provide specific information about the investigation process
- Provide resources to assist all school level administrators



“To implement sustainable solutions, institutions must be mindful of the rights of every student. No one benefits from a system that does not have the Public’s trust - not survivors, not accused students, not institutions and not the public.”

—**Betsy DeVos**

# The Intersection of Title IX and other laws

- State Nondiscrimination Laws
- State Athletic Association Rules
- Title VI and Title VII
- Americans with Disabilities Act
- Section 504 of the Rehabilitation Act

# WHAT IS TITLE IX?

No sex discrimination. No sexual assault. *Period.*



IF YOU **SEE** SOMETHING **SAY** SOMETHING **DO** SOMETHING

## **Federal Definition of 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 education program or activity receiving Federal financial assistance..”

20 U.S. Code §1681

# What does Title IX include for our students?

- **Single Sex Education:** Prohibited from providing any of its education programs or activities separately on the basis for sex, or requiring or refusing participation by students on the basis of sex, unless expressly authorized under the rules. One exception is that a recipient may offer a single-sex non-vocational elementary or secondary school under Title IX only if it offers a substantially equal school to the other sex;
- **Pregnancy and Parenting:** Discriminating against or excluding any student from its education program or activity on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery there from or applying any rule concerning parental, family, or marital status that treats persons differently on the basis of sex;
- **Discipline:** Subjecting any person to separate or different rules of behavior, sanctions, or other treatment, such as discriminatory discipline, based on sex;
- **Sexual Harassment:** Prohibits sex-based harassment by peers, that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the recipient's education programs and activities. It is also unwelcome conduct of sexual nature, physical sexual acts committed against a person's will; and
- **Athletics:** Prohibits sex discrimination in sports which includes student interests and abilities.
  - **[Quick Facts About Title IX and Athletics - National Women's Law Center](#)**, Fact Sheet  
June 21, 2022

# What does Title IX provide for our employees?

- A recipient is also generally prohibited from discriminating on the basis of sex in employment or recruitment.
- This includes employment actions, such as hiring, promotion, compensation, grants of leave, and benefits.
- These provisions also protect against discrimination based on an applicant's or employee's pregnancy or marital or parental status.
- Title IX prohibits sex-based harassment by employees that is sufficiently serious to deny or limit a another employee's ability to participate in or benefit from education programs and activities.
- Sexual harassment is unwelcome conduct of a sexual nature. Sexual violence is a form of sexual harassment and refers to physical sexual acts committed against a person's will.

# Defining the Behavior

- Quid pro quo harassment – conditioning the provision of an aid, benefit, or service of the school on a person’s participation in unwelcome sexual conduct (This for That);
- Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity, including conduct based on sex stereotyping;
- Sexual assault, as defined in federal law, or dating violence, domestic violence, or stalking as defined in federal law;

## When is this addressed?

- Allegations of sexual harassment that occur in an education program or activity located within the US and of which the recipient has actual knowledge.
- If a person alleges misconduct that fits in the above description, institutions have a duty to respond. The Title I Final Rule sets out your legal obligations in responding to such allegations.

# Title IX and Athletics

- To invoke Title IX with respect to an athletic program, a claimant must show:
  - Disparity between the gender composition of the institution's student body and its athletic program, thereby proving that there is an underrepresented gender.
  - Unmet interest, i.e., the underrepresented gender has not been fully and effectively accommodated by the present program.
    - How OCR evaluates the interests of the underrepresented:
      - Are there requests by students that a particular sport be added?
      - Is there equitable provisions for equipment and supplies?
      - Is there equitable and fair scheduling of games and practice times?
      - Is there equitable and fair assistance to meeting the travel needs of both the male and female teams? i.e. Cheerleading is an activity that is recognized by the NCHSAA



TIPS for Administrators!

Don't Bypass the Process!





# *Sexual* **HARASSMENT**



---

**IN THE WORK PLACE**

---

**WHAT CONSTITUTES SEXUAL HARASSMENT?**

---

**OFFERING  
BENEFITS**

for a sexual  
favor

**UN-  
WANTED**

sexual  
advancements

**THREATS**

or retaliation  
to "no"

**VISUAL  
CONDUCT**

suggestive  
gestures

**VERBAL  
CONDUCT**

derogatory  
comments

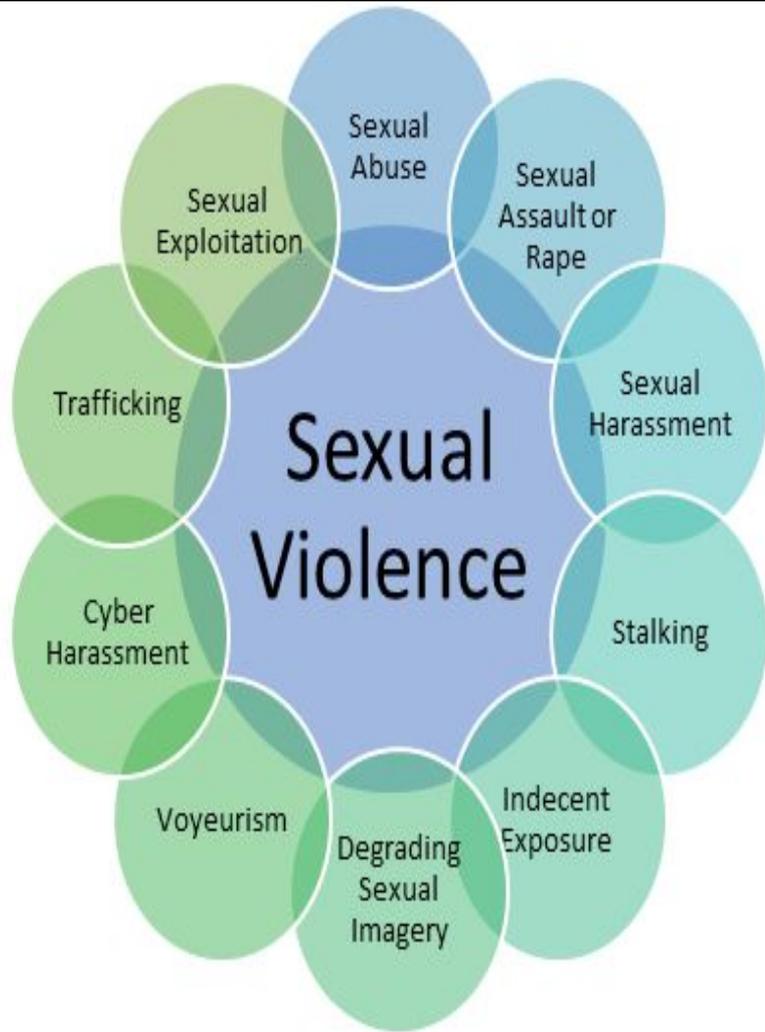
**PHYSICAL  
CONDUCT**

body position  
or touching

# Deliberate Indifference



A district's response to the alleged harassment or the lack of any response is clearly unreasonable in light of the known circumstances AND such indifference either causes the person to undergo additional harassment, makes them vulnerable to further harassment, or otherwise contributes to the deprivation of access to an education program or activity.



- Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (due to age, use of drugs or alcohol, or because of an intellectual or other disability)
- Violence that can be carried out by school employees, other students, or third parties.

# Statistics around teen & dating violence

- Sexual violence is common. Over half of women and almost 1 in 3 men have experienced sexual violence involving physical contact during their lifetimes. One in 4 women and about 1 in 26 men have experienced completed or attempted rape. Additionally, 1 in 3 women and about 1 in 9 men experienced sexual harassment in a public place.
- Sexual violence starts early. More than 4 in 5 female rape survivors reported that they were first raped before age 25 and almost half were first raped as a minor (i.e., before age 18). Nearly 8 in 10 male rape survivors reported that they were raped before age 25 and about 4 in 10 were forced into a sexual act with a minor.
- Sexual violence disproportionately affects some groups. Women and racial and ethnic minority groups experience a higher burden of sexual violence. For example, more than 2 in 5 non-Hispanic American Indian or Alaska Native and non-Hispanic multiracial women were raped in their lifetime.
- Sexual violence is also linked to negative health behaviors. Sexual violence survivors are more likely to smoke, abuse alcohol, use drugs, and engage in risky sexual activity.
- [Violence Impacts Teens' Lives - Fact Sheet](#)

# Who is affected?

**Men and  
Boys**

**Women and  
Girls**

**Sexual  
violence  
affects  
everyone.**

**The Elderly and  
the Very Young**

**People with  
Disabilities**

# Title IX Proposed Regulations

The consideration when discussing Students with Disabilities:

- ❑ Proposed regulations deals with responding to alleged sex discrimination involving a student with a disability, either as a complainant (i.e., the person who experienced the allegedly discriminatory conduct) or the respondent (i.e., the person who allegedly violated Title IX). According to the U.S. Department of Education, the Title IX process may intersect with IEP/504 team decisions, including those about FAPE. Therefore, for K-12 students, Title IX coordinator must consult with the student's IEP or Section 504 team to ensure the recipient complies with the IDEA and Section 504 throughout the Title IX grievance process and when supportive measures are offered.

# The Title IX Coordinator Must...



- Be someone who can respond independently and unbiased to a student formal complaint;
- May not be left vacant. There must be at least one person designated and actually serving as a Title IX coordinator at all times.
- Ensure that all school staff receive yearly training as to their duty to report to their immediate supervisor – Public School Works (Each Fall);
- Ensure that all administrative staff involved in the investigation, and decision making are trained;
- Ensure that support staff are aware of the information in order to ensure that if risk assessments are needed for students, they are aware of Title IX policies procedures;
- Ensure that students/parents are made aware of their ability to contact the Title IX Coordinator and file a formal complaint – Student Handbook and on the website & Board of Education Policy 1725/4035/7236;
- Ensure that all training materials are posted on the website; and
- Ensure that the grievance process proceeds with the proper documentation provided in order to maintain all records of any formal complaints for a 7 year period.

# Step by Step - What to do

**Consult with the Title IX Coordinator about the circumstances. Initial assessment of the complaint.**

**Title IX Coordinator contacts complainant to provide information.**

**Title IX Coordinator contacts respondent. Assigns the investigator.**

**Formal Investigation Process**

**Formal report To the Decision Maker**

All through the process, the supportive measures must be implemented, both for the complainant and the respondent, and continued as the investigative process takes place.

# The Responsibility of the Investigator

**If the respondent is a student or an employee, the investigator is usually the principal. As such, the principal will:**

- Contact both the complainant and respondent about a date, time and place they plan to meet with each, individually, to ask questions regarding the formal complaint;
- Gather evidence sufficient to reach a determination of whether the allegations in the formal complaint are true. Evidence is generally considered relevant if it has value in proving or disproving a fact.
- Interview all individuals who may have relevant information, including the complainant, the respondent, individuals identified as witnesses by the complainant or respondent and others who may have relevant information. You are looking for corroboration & consistency.
- Ensure that the **burden of proof and the burden of gathering evidence is on the district**, not the parties;
- Provide, to any witness whose participation is invited or expected, written notice of the date, time, location, of the investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- The investigator makes initial relevance “decisions” by including a summary of the evidence in the investigation report;
- Prior to completion of the investigative report, the district must send to each party and the party’s advisor, if any, the evidence subject to inspection and review, and the parties must have at least 10 calendar days to submit a written response, which the investigator will consider prior to submission.

# Equitable Investigation

- Investigations must be prompt, thorough, and equitable.
- District aims to bring all investigations to resolution within **90 business days** from the date the Title IX Coordinator determines an investigation should commence.
- Extensions of this timeframe allowed for “good cause”:
  - Complexity or number of allegations;
  - Severity and extent of alleged misconduct;
  - Number of parties, witnesses and other evidence involved;
  - Availability of the parties;
  - A request by a party to delay an investigation;
  - Effect of a concurrent criminal investigation or proceeding;
  - Intervening holidays, district breaks, or other closures;
  - Good faith efforts to reach a resolution; or
  - Other unforeseen circumstances



# Consider other factors...

## 1. **Retaliation**

- The school system & schools will take steps to prevent any retaliation to student (employee) who makes a complaint, a person who files a formal complaint, a student (employee) who provides information as a witness.

## 2. **Criminal Investigations**

- In some cases, the school should notify complainants of the right to file a criminal complaint, if applicable
- If applicable, an institution should work with law enforcement to learn when the evidence gathering stage of the criminal investigation is complete.
- A Title IX investigation will never result in incarceration.

### 3. **Bar on Sanctions without Disciplinary Due Process – Protecting the Rights of the Accused.**

- No discipline can be imposed on a Respondent until after the determination of responsibility by the decision-maker following the grievance process.
- Student- No short-term or long-term suspension, transfer to alternative school
- Employee- No suspension, demotion, or dismissal

### 4. **Exceptions:**

- Respondent agrees to discipline as part of Informal Resolution
- School makes an Emergency Removal (Issues of safety for others or in incidents of concern for mental health & personal safety)
- **Note:** Employee-Respondent's may be placed on paid administrative leave during the grievance process consistent with State law

# Emergency Removals

## WHEN CAN THE DISTRICT CALL FOR AN EMERGENCY REMOVAL

- The District is permitted to remove a Respondent from school on an emergency basis, provided the district's threat assessment team:
- Undertakes an individualized safety and risk analysis;
- Determines the Respondent poses an immediate health or safety threat to any person arising from the allegations; and
- Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- The District is permitted to place an Employee- Respondent on administrative leave during the pendency of its grievance process.

## WHAT CONSTITUTES AN EMERGENCY REMOVAL

- Suspension of any length of time.
- A transfer of a student to an alternative education program.
- A schedule change, if not considered a supportive measure.
- Removing a student from an extracurricular activity, is not considered a supportive measure.

# Supportive Measures must be in place

## What is Needed:

- Supportive measures mean non-disciplinary, non-punitive individualized services offered to students/employees as appropriate, as reasonably available, and without fee or charge to the **complainant and/or the respondent**, before or after the filing of a formal complaint.
- Supportive measures are designed to restore or preserve **equal access** to the institution's education program or activity without unreasonably burdening the other party.
- The Title IX Coordinator works with school administrators to provide the following as possible supportive measures: Counseling, Mental Health Services Referrals, Extensions of deadlines or other course-related adjustments, Modification of work or class schedules, Escort Services, Mutual restriction of contact between parties, increased security & monitoring, change in work locations (employees), leaves of absence (employees).

# Informal Resolution Process

**The Title IX Coordinator may offer the parties the opportunity to resolve the complaint informally.**

- This is less time intensive but allows both parties to participate in the process led by the school system for resolution.
- This process excludes allegations that an employee sexually harassed a student;

## **Provisions**

- Parties must voluntarily consent in writing to participate: but at any point the Title IX Coordinator or the facilitator may determine that the informal resolution process is not an appropriate method for resolving the matter. This is not subject to appeal.
- If it moves forward, the Title IX Coordinator will provide both parties a copy of the informal resolution regulation and include a notice that either party may withdraw from the process at any time and the formal process will move forward.

**The facilitator is appointed by the Superintendent or his designee (Title IX Coordinator)**

- Provides each party an opportunity to tell their story, explain what is important to them and what outcome they are seeking;
- Clarify with each party what information the Facilitator may share with the other party;
- Move back and forth between the parties until an agreement can be reached or the parties are at an impasse.

# Role of Facilitator

## Terms of the Informal Resolution Agreement

- The names of both parties;
- The names of any advisors present (This can be an advocate or parent);
- The name of the informal facilitator;
- Specific terms of the agreement;
- A general description of the process that led to the resolution;
- Acknowledgement that the informal resolution process was used instead of the formal resolution process and both parties volunteered;
- Acknowledgment of the terms of the agreement by the parties;
- Confidentiality provisions agreed to by both parties;
- The informal resolution facilitator will send the parties the written agreement and give them 3 calendar days to review and respond to the document prior to finalizing it;
- If after 3 calendar days, both parties agree to the informal resolution terms, they will sign the final agreement document. The facilitator will notify both parties simultaneously in writing of the final signed agreement and provide them a copy of the agreement;
- Once the parties sign the agreement, the matter is closed, the informal resolution is non-appealable, and the formal complaint process will not be re-initiated.

# Links to Board Policies

- [Policy Code 1720/4030/7235 Title IX Nondiscrimination on the Basis of Sex;](#)
- [Policy Code 1725/4035/7236 Title IX Sexual Harassment - Prohibiting Conduct and Reporting Process;](#)
- [Policy Code 1725/4035/7236 - R Sexual Harassment - Definitions;](#)
- [Policy Code 1726/4036/7237 Title IX Sexual Harassment Grievance Process;](#)
- [Regulation Code: 1726/4036/7237 - R Informal Resolution Process](#)
- Others of Importance -
  - [Nondiscrimination on the Basis of Disabilities \(1730/4022/7231\)](#)
  - [Staff-Student Relations \(4040/7310\)](#)
  - [Assaults and Threats\(4331\)](#)
  - [School-Level Investigations \(4340\)](#)

# Thanks!

For questions or concerns,  
contact **Cindy Corcoran**,  
**Assistant Superintendent of  
Instructional Support  
Services & Human  
Resources/Title IX  
Coordinator -**  
**[ccorcoran@rock.k12.nc.us](mailto:ccorcoran@rock.k12.nc.us)**  
**Phone: 336-520-5169**

CREDITS: Diese Präsentationsvorlage wurde von  
Slidesgo erstellt, inklusive Icons von Flaticon und  
Infografiken & Bilder von Freepik

