



Four Practical Tips For K-12 Title IX Compliance

Insights

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Administrators at K-12 school districts around the country have enormous responsibilities, with Title IX compliance high up on their list. While all administrators are concerned with doing the right thing by their students, almost without exception they have exceptionally limited resources with which to operate.

In theory, the Title IX sexual misconduct compliance obligations for K-12 schools and higher education institutions are identical. However, in some significant practical ways, the obligations are very different. For K-12 institutions concerned about Title IX compliance, here are four practical suggestions (in no particular order) to help get your schools to substantial compliance.

1. Craft A Comprehensive Policy And Make Sure Your Community Knows About It (And Understands It)

The focus for decades in K-12 schools has been on adult predators. Obviously, schools must remain vigilant in this area. With that said, many school districts have neglected student-on-student sexual misconduct, especially in their prevention programs and policies.

To be compliant with Title IX, K-12 schools must ensure that their sex discrimination policies specifically include student-on-student sex misconduct as a prohibited form of sex discrimination. In addition, policies must identify the school district's Title IX coordinator and ensure that students know who to bring a complaint to in the event the policy is violated.

One of the unique facets of K-12 Title IX compliance is the importance of crafting policies that are understandable to an audience of school children. The emphasis should be on keeping policies short and clear. If for some reason that's not possible (*e.g.*, too many lawyers involved in the drafting process), schools should have clear promotional pieces so that students, at a minimum, know who they can complain to. It is equally important that policies be communicated not only to students, but also to their parents.

There are other bells and whistles that the Department of Education would like to see in Title IX policies (anti-retaliation provisions, making sure policies cover the acts of third parties, etc.). Our firm offers template policies that can help your school get started, available without charge [upon email request](#).

2. Designate A Professional Title IX Coordinator And Identify Responsible Employees

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Over the last five years, an interesting development with respect to higher education Title IX compliance has been the move from administrators wearing multiple hats, including Title IX compliance obligations, to full-time Title IX coordinators who focus exclusively on compliance issues.

While retaining a full-time Title IX coordinator is an idea worth considering for K-12 school districts, there are initial baby steps that most districts should focus on first. Most notably, many districts have done a poor job of identifying who their coordinator is and ensuring that the person with the title understands the obligations of the position. This must change. The name of the coordinator including contact information should be prominently displayed by schools. In addition, schools have to make sure their coordinators are trained and understand their responsibilities.

Similarly, there has been much discussion within higher education about which employees are “responsible employees” under Title IX, *i.e.*, those school employees who acts as agents of the school for Title IX purposes. K-12 schools have paid less attention to this important subject, and this should be addressed as well. Specifically, school districts should identify their responsible employees and ensure that those employees are provided with training to understand their obligations.

3. Focus On Prevention Programs That Actually Work

There is wonderful research being done now on identifying effective programs to fundamentally change school culture and prevent sex assault. There are also worthwhile prevention programs being implemented in schools around the country focused on both risk reduction and changing school climate. However, according to the Center for Disease Control, only three prevention programs to date have been shown to be effective for preventing sexual violence perpetration:

- [Safe Dates](#)
- [Shifting Boundaries](#)
- [RealConsent](#)

While the research will undoubtedly uncover other promising prevention programs, K-12 administrators looking for programs to reduce the incidence of sexual assault would be well served sticking to these tried and true programs.

Along those same lines, bystander intervention programs have been dubbed by the CDC as “promising.” These programs empower students to intervene when they see potentially problematic conduct. While bystander intervention programs take time and resources to meaningfully develop, they can be effective in changing culture and enlisting students in the battle to combat peer sexual violence.

4. Know What Triggers Mandatory Reporting Obligations

One of the areas in which K-12 Title IX compliance is fundamentally different than higher education compliance is with respect to handling student requests for confidentiality. Specifically, it is not uncommon for college-aged victims of assault to request that a university keep a complaint confidential, *i.e.*, not pursue a claim through the institution's disciplinary process. The Department of Education has provided institutions with an analysis the schools must go through in assessing these requests, but the clear presumption favors honoring requests for confidentiality.

In contrast, student-on-student assault in the K-12 setting typically involve minors. Consequently, the considerations regarding confidentiality are different and a school may very well be obligated to process a complaint through its conduct process even when a student asks the school not to. More importantly, many K-12 institutions are covered by state mandatory reporting laws which are often triggered by student-on-student misconduct.

Put another way, in those states; strict confidentiality is never an option. As K-12 schools ramp up their Title IX outreach efforts, complaints will undoubtedly increase and understanding the legal obligations created by a report of sexual violence in the K-12 setting is essential.

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