

TITLE IX INVESTIGATIONS:

GETTING IT RIGHT

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HYPOTHETICAL FACT SCENARIO

- HS Softball team with male coach
- Several players tell teachers they feel uncomfortable about how coach looks at them and talks to them (asking if they have boyfriends, commenting on appearance etc.)
- These complaints get to a school counselor who reports them to the school Principal
- Principal reports this to the Assistant Superintendent who oversees student affairs, also happens to be the Title IX coordinator for students, and also happens to be friends with the softball coach
- Asst. Superintendent has HR Director go to the campus to investigate

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HYPOTHETICAL FACT SCENARIO

- When HR Director gets to campus he learns that one of the girls on the team has made an outcry of inappropriate touching by the coach to a counselor
- Report is being made to CPS by the counselor
- The coach is put on administrative leave and HR Director's investigation commences
- No formal Title IX complaint has been filed by anyone
- While investigation is ongoing, the Asst. Superintendent makes a determination that Title IX is not implicated

First Question: When does Title IX Apply

34 CFR 106.301 Education Programs or activities

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.

DEFINITIONS 34 CFR 106.30

Sexual harassment - means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) 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 recipient's education program or activity; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

DEFINITIONS 34 CFR 106.30

Complainant - means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent - means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

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