

Policy #902

Title IX Investigation Process

Created: September 2021

Sponsor: Jacalyn Auris, Vice President of Education Services

I. Purpose

To ensure Devereux is compliant with the US Department of Education Title IX rules and regulations. Title IX relates to sexual harassment claims within schools.

II. Scope

This policy applies to all Devereux Centers that operate school programs. This policy applies to all Devereux centers that operate school programs for students ages 5-21. Centers are required to have procedures in place to comply with Title IX regulations.

III. Policy

A. Background

1. Under Title IX, sexual harassment is defined as “an unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity.” There is an obligation to investigate, prove, and act to remedy harassment under Title IX regulations. Sexual harassment claims cover student-to-student interactions, staff-to-student interactions, and staff-to-staff interactions.

B. Title IX Roles

1. Title IX Coordinator: The Title IX Coordinator must be a school administrator who receives written and oral complaints and is also able to file complaints based on verbal information. This individual may also serve as the investigator but may not serve in any other Title IX role.
2. Title IX Investigator: The Investigator is required to follow a detailed process of gathering evidence based on which they issue a report of their findings and/or recommendations. This report is required to be submitted to the Title IX Decision Maker
3. Title IX Decision Maker: Based on the report of and evidence found by the Title IX Coordinator/Investigator, the Decision Maker must determine whether discrimination has occurred, and what, if any, sanctions would apply. Either party – the accused or the accuser – can appeal this decision to the appeals officer, who must also be an administrator, but one other than the Title IX Coordinator, Investigator, or Decision Maker.
4. Title IX Appeals Officer: The Title IX Appeals Coordinator handles all appeals of the decision made by the Title IX Decision Maker in the event either party requests an appeal through the appeal process.

C. Investigation Process

1. An investigation is initiated when: (1) There is actual knowledge by any employee (other than a harasser) of any conduct constituting harassment actual knowledge, or (2) Any written knowledge is filed with the Title IX Coordinator, or (3) An oral complaint is heard by or is told to the Title IX Coordinator. Title IX Coordinator offers supportive measures and information about filing the written complaint.
2. The Title IX Coordinator determines whether the complaint does or does not constitute sexual harassment.
3. If the Title IX Coordinator determines the event did not constitute sexual harassment, they issue written dismissal of some or all of the allegations in the complaint because: (A) the conduct alleged would not constitute sexual harassment even if proved; (B) the conduct did not occur in the LEA's education program or activity; (C) the complainant withdraws the complaint in writing; (D) the alleged harasser is no longer employed by or participating in the LEA's programs or activities.
4. If the Title IX Coordinator determines the event could constitute sexual harassment, he or she issues written notice to all parties of the grievance process and begin a formal investigation. The Title IX Coordinator provides to each party copies of all evidence reviewed and allows them 10 days to respond in writing and the ability to (A) participate in any interview or proceeding with counsel or an advisor, (B) present any "inculpatory or exculpatory evidence"
5. Title IX Coordinator or investigator prepares investigative report and issues to parties. Each party is given the opportunity to ask written questions of the other through the submission of those questions to the Title IX Coordinator, who is responsible obtaining from and giving answers to the questioning party. The Title IX prepares a final report and recommendations for submission to an impartial Decision Maker, who determines in writing whether, based on the preponderance of the evidence, a violation of Title IX has occurred and, if so, the sanctions and supportive measures to be undertaken. Either party may appeal the written determination of the Decision Maker to a Title IX Appeals Officer, whose written determination will be final.
6. At any time, the parties may pursue informal resolution of the complaint offered by the Title IX Coordinator.
7. Based on the outcome of the investigation and decision-making process, the Title IX Coordinator implements sanctions or supportive measures as directed by the Decision Maker or, if a party appeals, by the Appeals Officer.
8. The Title IX Coordinator must maintain all records of complaints and investigations for seven years.

Approved: 

Carl E. Clark II, President
September 14, 2021