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Know Your Rights: What is Title IX?

#WeRideTogether is committed to providing resources and information to survivors so that they can navigate various reporting processes armed with all the information they need. Survivors should be empowered to know their rights in every reporting situation. Our Know Your Rights Series will explore Title IX, SafeSport, civil processes, and criminal cases to provide survivors with straightforward, useful information.

“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.” – Patsy T. Mink Equal Opportunity in Education Act (Title IX)

What is Title IX?

Title IX is a federal law that prevents sex-based discrimination in educational settings. Title IX protects female students, gender non-conforming and/or transgender students, and LGBTQ+ students from discrimination based on these identities.¹ Title IX was passed in 1972 in landmark legislation that altered the educational setting by establishing protections not just for all students' right to learn, but also for women's athletics.

Title IX protects against sexual harassment, sexual violence, intimate partner violence, and retaliation, as well as protecting women's sports.

Sexual harassment includes gender-based offensive “jokes”, pervasive/persistent homophobic, transphobic, or misogynistic comments, unwelcome touching or sexual advances, stalking, and quid pro quo (“this for that”) harassment, such as a professor promising an “A” on an exam in exchange for sexual favors from a student.

In instances of sexual violence, students *cannot* consent to sexual activity if they are incapacitated due to drugs or alcohol.² Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.¹

According to attorneys at Duffy Law, “Students who accuse someone of sexual abuse in a campus disciplinary proceeding may receive greater protections during the investigation and handling of the allegations than they would if they pursued criminal liability, so complainants will often work with a Title 9 lawyer before exploring other options.” However, students can choose to report sexual misconduct to their school's Title IX office, law enforcement, or both.

Schools that don't comply with Title IX risk losing their federal funding, which can be devastating to schools. While this compels schools to comply with Title IX, it's important to know your rights in case your school violates them.

The Gist

Title IX is a provision of the Civil Rights Act and prohibits discrimination on the basis of sex in educational environments. Title IX covers various forms of discrimination, from sexual harassment and sexual violence to ensuring the protection of equal access to athletics.

Students who experience sex-based discrimination at school should be able to access support and reporting processes through their school's Title IX coordinator. Any school, public or private, must comply with Title IX if they receive even a dollar of federal funding. In K-12 environments, there is generally more support offered to the survivor, and less likelihood of punitive action being taken against a perpetrator.

Any student who wishes to pursue a Title IX complaint should do so with the help of an attorney, although it is not required. Title IX allows for complaints to be made against perpetrators, but also against schools that do not fulfill their Title IX duties. Furthermore, schools are required to have a Title IX coordinator as a point of contact for students. [Know Your IX](#) lists resources to find pro bono attorneys.

Title IX's reach changes with every presidential administration but is generally expanding over time. For more information on how Title IX might apply to you, check out the sections below.

Title IX Vocabulary

Complainant: the person filing the complaint against another student for sexual misconduct; the victim or survivor.

Respondent: The person being accused of sex-based discrimination or sexual misconduct; perpetrator.

Advisor: a person's counsel or attorney, or another individual who serves as a counselor to a party such as a professor, a school-assigned advisor, or a law student.

Advocate: some schools also have victims' advocates.

Title IX Coordinator: a person at a school, school district, or school system in charge of Title IX compliance and implementation.

How Does Title IX Work?

Title IX is enforced by the Department of Education’s Office of Civil Rights (OCR). It applies to any school that receives federal funding, which includes practically all schools.³ According to the OCR, Title IX covers “approximately 17,600 local school districts, over 5,000 postsecondary institutions, and charter schools, for-profit schools, libraries, and museums.”

Title IX requires that all schools have a Title IX coordinator, or an administrator in charge of compliance with this law. It also requires that schools have established Title IX rules and procedures. This means that no student who files a Title IX complaint should be the “guinea pig” for a school’s compliance process.

Title IX applies to all students, regardless of citizenship status, gender, or sex, and even applies to prospective students. A student does *not* have to go through law enforcement to file a Title IX complaint, although they can choose to do both. A criminal process and a Title IX process are completely separate.⁴

If a student does file a Title IX complaint, they will decide with their advisor/counsel whether or not to seek an informal resolution, such as a mediated agreement, or to file a formal complaint. The formal complaint process involves an investigation process, a live hearing, and a decision-making process. The Title IX process is supposed to be timely but can last several months or semesters.

Who Governs/Oversees Title IX?

The Department of Education’s Office of Civil Rights oversees Title IX. In addition to Title IX, it also serves students facing discrimination related to disability, race, national origin and ethnicity, and age. The OCR has regional offices in San Francisco, Seattle, Denver, Dallas, Kansas City, Chicago, Cleveland, Atlanta, D.C., Philadelphia, New York and Boston. These regional offices are generally the ones handling Title IX complaints.¹

The [courts also oversee Title IX](#) through the private right of action, or the right of survivors to file lawsuits, according to attorney [Cari Simon](#). In court, only victims of discrimination or misconduct can file a complaint. Anyone can file a complaint with the OCR.

What Rights Do I Have Under Title IX in My K-12 School?

The right to supportive measures.⁵

If a student experiences sex-based discrimination at a K-12 school, the school must provide certain supportive measures to the complainant. **Students need not formally report the misconduct to have a right to supportive measures.** These depend on a case-by-case basis, and the school is required to provide them regardless of the status of an investigation or whether the victim files a formal complaint at all. However, the school does have to be informed about the misconduct by a student or parent before it must take on this responsibility.

In some instances of sex-based discrimination, the school may be required by law to start a formal investigation even if the victim does not want them to. Cases like teacher-student sexual relationships fall under this requirement.

If the perpetrator is another student, supportive measures may include things like schedule changes, school escorts, school changes, class changes for the complainant, locker changes, receiving a parking pass, or removing the respondent from school activities.

If the perpetrator is a school adult, such as a teacher or administrator, they must be placed on administrative leave until the investigation concludes.

If the perpetrator is a non-school adult, the school can issue a “persona non grata” letter, which bans the perpetrator from school property; it can also implement measures such as parking passes, schoolwork extensions, et cetera for the victim.

If the school refuses to provide supportive measures, it must give the complainant an explanation *in writing* that must be available at all times. Supportive measures which are provided must be given at no expense to the complainant. If a formal investigation is pursued and the respondent is found to have committed the misconduct, supportive measures must be given for as long as the complainant wants. In these cases, these measures may also be punitive for the perpetrator.

A complainant has the right to ask for a written copy of their supportive measures at any time, so schools should keep these on file. A student does not need to file a police report to be given supportive measures, nor does a school have to inform the complainant’s parents of the misconduct for Title IX to apply.

The right to schoolwork accommodations.

Supportive measures can also be applied to schoolwork. It’s reasonable for a complainant to ask for homework, essay, and exam extensions, excused tardiness or absences, school-provided

tutoring, adjusted transcripts, or retention of membership in school activities with GPA requirements, even if the complainant no longer meets those requirements due to their traumatic experience. The complainant also has the right to *ask* to be put in online classes, but the school may not *make* the complainant take a class online as part of a resolution.

The right to an investigation.

Complainants are entitled to formal investigations.

A school cannot force a complainant to agree to an informal resolution or force them to waive their right to an investigation **under any circumstances**.

Schools must have a Title IX coordinator who is in charge of overseeing complaints. This person is the mechanism through which a student may initially report misconduct. Students and their families are encouraged to seek legal representation for formal complaints, as students are entitled to an advocate. Schools can remove the perpetrator from events or school positions, such as student council or prom, as punishment for misconduct, but not without a formal investigation. This is because respondents also have a right to due process.

However, K-12 schools generally cannot remove the perpetrator from school during the investigation unless it finds an imminent threat to the complainant or other students. K-12 schools can remove the perpetrator from the school as a result of an informal resolution or as a punishment through the formal disciplinary process.

An investigation should take less than 60 days.⁶ Both the complainant and the respondent have the right to provide witnesses and evidence. Both parties are also entitled to a Notice of Outcome, which informs them of the investigation's findings.

The right to an informal resolution.

An informal resolution is a “non-investigative method to help you and your harasser reach an agreement, like requiring your harasser to take a class about sex-based harassment.”⁵ Mediation falls under this category. However, informal resolutions are generally not considered appropriate for instances of sexual violence in K-12 settings, according to Simon.

A complainant who chooses to proceed with an informal resolution is entitled to proceed with a formal complaint instead *at any time*. Schools may *not* impede a complainant from doing so.

Mandatory reporting.

Many adults in a school setting are [mandatory reporters](#). If a student discloses to a school adult that they have experienced sexual misconduct, the adult may be required to report the misconduct or face legal consequences.

The right to disability accommodations.

Students are entitled to disability accommodations under Section 504. This includes prior disabilities exacerbated by sex-based discrimination or new disabilities caused by harassment. Examples of this include post-traumatic stress disorder, anxiety, or depression.

The right to protection from punishment and/or retaliation by the school.

Schools must protect complainants from retaliation due to reporting misconduct. This includes retaliation from the school itself and classmates.

For example, a complainant can't be punished for breaking a school rule while experiencing harassment unless the school has a zero-tolerance policy for that behavior.

The school also can't punish a student for requesting a formal investigation instead of an informal resolution. Nor can the school punish a complainant for telling others what they experienced, or for making a "false" statement or complaint, even if the school finds no wrongdoing in an investigation.

Students who report sex-based discrimination must also be protected from retaliation from peers. For example, if a cheerleader reports misconduct by a football player, her spot on the team may not be revoked because she reported it.⁵

Educational conversation for the harasser.

Title IX allows a victim to request the school have an educational conversation with their harasser explaining why their behavior is detrimental and violates school rules, even if no formal complaint is made.⁵

What If I Attend a Private School or a Religious School?

Does your school receive federal funding?

If your school receives federal funding, the same rules apply to private or religious schools as they do to public schools.⁷

Traditionally, Title IX has not applied to private schools. However, two recent federal court rulings in Maryland and California have set the precedent that a tax-exempt private school is required to comply with Title IX. These rulings happened in 2022, and many private schools may still not be in compliance. If your private school is tax-exempt and not in compliance with Title IX, you can submit a complaint to the OCR [here](#).

If you attend a private school that is tax-exempt or receives federal funding, see the previous section for your Title IX rights.

However, if your school is a religious school, they may have requested waivers from the OCR waiving them from certain Title IX requirements. You may need to check if your school has any Title IX waivers.

What Rights Do I Have Under Title IX at My College or University?

The right to prompt and effective action.

Colleges must take immediate steps as soon as they learn about the incident(s) of sex-based discrimination.⁸ This means that they must take action to prevent the violence or discrimination from happening again. This can include no-contact orders, support services, or changes to the housing, class schedule, or extracurricular activities of the complainant. These actions must happen at no cost to the complainant.

“Even if a student or his or her parent does not want to file a complaint or does not request that the school take any action on the student’s behalf, if a school knows or reasonably should know about possible sexual harassment or sexual violence, it must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.”⁹

A student’s Title IX rights at universities apply even if they are no longer a student at that school.

The right to an easily accessible Title IX coordinator and established procedures.

All schools must have a Title IX coordinator, and their policies and procedures for handling reports of sex-based discrimination must be established before any students report. The Title IX coordinator must be easily accessible. Students can generally find this information by searching “[school] Title IX coordinator.”

The right to an investigation.

Every complainant has the right to present their case, and a school cannot force them to waive this right. Ideally, the entire investigation should happen within a semester of reporting.

In these investigations, the preponderance of the evidence standard or the clear and convincing standard must be used. Preponderance of the evidence means the misconduct *more likely than not* occurred, or the investigation must find there is a “50% and a feather” chance the misconduct happened, as opposed to the criminal justice system’s “beyond a reasonable doubt” standard. A clear and convincing standard is less straightforward and not commonly used, according to Simon.

In Title IX investigations, there must be a live hearing.

“Survivors are no longer subject to potentially retraumatizing cross-examination by opposing counsel after a Trump era rule permitting cross-examination was struck down in 2021. If a survivor does not submit to cross-examination, schools will rely on their previous statements,” says Elyse Stolpe, an assistant commonwealth’s attorney in Virginia and University of Virginia School of Law Lecturer.

“Schools haven’t gotten rid of the requirement, just the consequence of the requirement,” says Simon. When this rule was in place, cases could not move forward if the survivor would not submit to cross-examination, forcing survivors to choose between a chance at justice and saving themselves from re-traumatization.

Schools may be required to act upon knowledge of sex-based discrimination, even if a victim has not filed a formal complaint. According to the OCR, “Even if a student ... does not want to file a complaint or does not request that the school take any action ... if a school knows or reasonably should know about possible sexual harassment or sexual violence, it must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.” This means that if the school finds out about sex-based discrimination, they may be required to act even if the victim has not filed a complaint.

The right to an informal resolution.

If the survivor does not wish to file a formal complaint or report, they have the right to an informal resolution. This keeps them from having to go through a hearing but also means the perpetrator is less likely to face serious consequences.

A complainant may end the informal resolution process and proceed with a formal complaint at any time. These kinds of resolutions, such as mediation, are not always considered appropriate for sexual assault cases, although they frequently happen, according to Simon. Mediation may not be considered appropriate for sexual assault cases because the nature of the misconduct is so severe. After an informal resolution has been completed, a complainant does not generally have the right to additionally pursue a formal investigation.

The right to appeal.

All parties have the right to [appeal an investigation](#)'s finding.

The right to an advocate.

All students have the right to some form of counsel, generally an attorney. It's a good idea to get an attorney before even filing a complaint so that they can help with writing and submitting the initial report.

The right not to have to come face-to-face with the perpetrator, and not to be asked questions by the perpetrator.

A survivor must never be required to come face to face with a perpetrator or be required to speak to a perpetrator. In cases of Zoom hearings, however, some schools may require that the complainant and the respondent be in the same Zoom meeting.

The right to protection from retaliation.

Colleges or universities may not punish a survivor for reporting and must protect a survivor from retaliation from third parties, such as other students. Examples of this would be bullying or harassment from other students directly regarding the instance of gender-based discrimination.⁸

The right to submit, challenge, and examine evidence.

All parties have the right to submit their own evidence, examine the other side's evidence, or challenge that evidence. This is typically done by the advocate or attorney.

The right to keep previous sexual history out of the investigation.

The Department of Education does *not* consider prior sexual history admissible evidence in a Title IX investigation. Therefore, that information *may not be used* in a Title IX investigation, hearing, or decision.¹⁰

The right to be informed of an investigation's findings.

All parties must be informed of an investigation's findings and decisions. Survivors may *not* be required to sign a Non-Disclosure Agreement (NDA) by the school as part of a resolution or outcome.

The right to annual, public crime reporting by your university.¹¹

Under the Clery Act, colleges and universities must annually report crimes that happen on campus and immediately off campus. The report must be published every October 1st. Clery Act crimes include hate crimes, weapons offenses, sexual harassment, sexual assault, and simple assault, [among many others](#). Timely warnings must also be issued if a crime is a threat to campus safety and is ongoing.

What If I Attend a Private or Religious College or University?

As of 2021, Title IX applies to all functions of private undergraduate universities, as long as they receive some form of federal funding. Almost all private colleges receive some form of federal funding, such as tax-exempt status or Pell grants.

The exception to this is admissions. Private universities may discriminate on the basis of sex in the admissions process. This allows for single-sex colleges to continue to exist, and is also the rule that allows sororities and fraternities to remain single-sex organizations.¹²

Private universities may also make claims to the OCR for religious exemptions to certain tenets of Title IX. If part of a private university's honor code or student code of conduct contradicts Title IX and is directly tied to a religious belief held by its governing organization, the university may make a request to the OCR for a religious exemption. This exemption applies *only* to that specific Title IX provision. For example, a private school that requires students to follow a certain dress code due to religious reasons is not exempt from provisions relating to sexual assault.

If a private school does not request an exemption from the OCR, they may still claim it if a student complains to the OCR about a violation.¹²

Other than this, all Title IX rules and rights apply. See previous section.

What Happens If I Don't Like a Title IX Ruling?

The right to an appeal.

Both the complainant and the respondent have the right to appeal a Title IX ruling. In this circumstance, the original decision will be reviewed by an administrator who was not involved in the decision-making process the first time. However, appeals can only happen under certain circumstances:¹³

1. *Disproportionate sanctions*: punishment either too harsh or not harsh enough in accordance with evidence.
2. *Procedural error*: there was some sort of procedural error during the investigation that affected the outcome.
3. *Decision maker bias*: the decision maker in the case was biased against one party or the other. This is *extremely* difficult to prove.
4. *Decision was not supported by evidence*: findings were unreasonable due to the evidence provided *or* new evidence was found which could change the outcome of the hearing.
5. *School's discretion*: Universities may also allow appeals for other reasons. Check your school's Title IX policies to see if they allow appeals for other reasons.¹⁴

The right to sue or file an OCR complaint.

Students who feel their school has violated its Title IX duties may sue in a federal court and/or file a complaint to the OCR. A student does not need to file a complaint to the OCR to sue in court.

To file a lawsuit, the complainant must be the victim of the Title IX violation or the parent of the victim if that person is a minor. However, anyone may file an OCR complaint on behalf of a victim of a violation.

All states have a statute of limitations for filing a Title IX lawsuit. These vary from state to state, and in some cases can be as short as one year.¹⁵

Findings in court in favor of the complainant can include injunctive relief if the court finds a violation, even if the complainant is no longer a student, so long as another group of students would benefit. Injunctive relief means restricting a party from doing certain things or requiring

that they do certain things. It may also include monetary damages and compensation for attorney fees.

[Know Your IX](#) lists resources to find pro bono Title IX attorneys. The OCR's Discrimination Complaint Form [can be found here](#).

Students who have been victims of sexual misconduct may also choose to sue the perpetrator. For more information on this option, see "[Justice Options for Athletes](#)."

The Future of Title IX

Each presidential administration can create new guidance for Title IX, create new rules, or make changes to their predecessor's regulations. While the Biden administration's proposed changes are receiving a lot of press because they would largely entitle transgender athletes to compete according to their gender identity, its other proposed rules would also affect other instances of sex-based discrimination.¹⁶

The Biden administration's final Title IX rules were expected in October 2023 but were not released.¹⁷ The final rules are scheduled to be released in [March 2024](#), with implementation by the next school year. The administration's original proposed Title IX rules were released in July 2022. Unfortunately, this delay in implementing new rules has allowed for harmful and sometimes retraumatizing processes to remain in place, like complainant cross-examination at a live hearing to continue, leading to the re-traumatization of countless survivors.¹⁸ Cross-examination of survivors was not allowed prior to the Trump era.

The proposed regulations widen the definition of sexual harassment back to pre-2020 standards. According to Stolpe, these include the expansion of qualifying sexual harassment, protection of gender identity and sexual orientation, standard of evidence, and broader jurisdiction over off-campus violations. The previous administration's standards narrowed this definition, meaning some survivors could not report under Title IX.

One of the most important changes is just a single word. Current Title IX regulations say sexual harassment must be "severe *and* pervasive" for it to be a Title IX violation, while these proposed rules say that sexual harassment must be "severe *or* pervasive," which opens the door for more survivors to report their experiences.¹⁸

The new regulations also expand Title IX protections to gender identity and sexual orientation. This is currently the case due to Supreme Court precedent, but under the new regulations would be the letter of the law.¹⁸

Under the proposed rules, schools will also be required to use the same standard of evidence for *all* discrimination cases. This means that if schools want to use the ‘clear and convincing’ standard, which is less fair to complainants than the preponderance of the evidence standard, they must use that standard in *all* discrimination cases, such as cases of racial discrimination.¹⁹

The new regulations would also allow schools to investigate Title IX violations that happen off-campus, such as at fraternities, on study abroad programs, or at off-campus apartments. The proposed rules have been overwhelmingly supported by civil rights groups.¹⁹

For more in-depth information on the different Title IX topics covered here, please browse the links in the text. If you are a student or a parent at any level of education, take a moment to identify your campus Title IX coordinator. Generally, a quick Google search of “[school] Title IX coordinator” will bring that information right up. And, if you’re a prospective or current college student, check out End Rape on Campus’ [Campus Accountability Map + Tool](#) to see how your school measures up on issues of sexual and gender-based violence.

Special thanks to attorneys [Elysse Stolpe](#) and [Cari Simon](#) for their review of this article.

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