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Supplemental Materials – Title IX Training for Coordinators, Investigators, Decisionmakers (both regular and appeals):

Answers to Q&A During Webinar

DATE: August 14, 2020

The following questions and answers were posted during the webinar program. Additional comments were also received. Those comments related to requests for materials and program content beyond the scope of the limited purpose of this program. The regulations we discussed require districts to be prepared for compliance today. A critical part of compliance requires identifying the Title IX Coordinator and completing training for the coordinators and others involved in implementing the process. Districts still working through the policy implementation process may consider adopting a resolution implementing all aspects of the provisions of the amended Title IX regulations as an interim measure – including, providing appropriate notice, identifying the Title IX Coordinator(s), adopting whatever standard of evidence they are going to use, and drafting and approving a permanent policy and procedure moving forward.

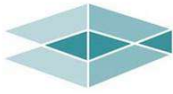
Our team at Strang, Patteson, Renning, Lewis & Lacy, S.C. will be reviewing those comments, suggestions, and requests for additional programming on this topic. We welcome your suggestions on additional program topics as well.

Finally, some who submitted questions will receive direct follow-up as we were not clear exactly what was being asked and rather than guessing, prefer to contact those individuals directly to make sure we understood and address the correct issue.

Questions and Answers:

Question 1: Did you say that materials from the trainings must be posted on our website?

Yes, the regulations require that the training materials be posted on the District's website or, if you do not have a website, be otherwise publicly available.



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Question 2: Just verifying that this is not just an employee to employee issue. This applies to employee to student, student to employee, and student to student?

Correct. The prohibition of discrimination on the basis of sex in Title IX relates to any such discrimination in the school's education program or activity. The new regulations address sexual harassment as a basis for sex discrimination. Much of these regulations, such as supportive measures and remedies, is designed to protect or to restore students' equal access to the educational program.

Question 3: Nonforcible included only intercourse? Not things like fondling, etc.?

The definitions for whatever reason break sexual intercourse out into forcible and nonforcible based on age-related consent limitations. However, the definition of "forcible" includes fondling, sodomy, sexual assault with an object where an individual lacked capacity to consent due to age, effectively incorporating statutory rape concepts of those other conduct categories into a single definition. Ultimately, whether something is forcible or nonforcible by those definitions is not significant, just that it is covered conduct.

Question 4: Are we talking about events that happen in our school building or all events of any knowledge in our community?

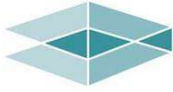
Notice of sexual harassment that occurs in the educational program or activity has to be reported, provided that the location or event is one that the district has substantial control over the respondent and the context of the location or event. Not everything in the community would be covered by this process.

Question 5: Regarding having attorneys present, under the Regs do we have a choice since the parties are allowed to bring an Advisor of their choice?

The parties are entitled to an advisor of their choosing and they are permitted to attend any meeting - but not witnesses. And we can place restrictions on participation of advisors as long as they are imposed equally.

Question 6: Do all parties receive this information including the names of those who provided facts associated with the complaint?

Yes, the regulations require that the investigator provide the Respondent and the Complainant with any evidence obtained that is directly related to the allegations in the formal complaint, including: 1. Evidence that the district does not intend to rely upon in making a final determination, and 2. Inculpatory or exculpatory evidence. This step may create significant issues for school districts regarding retaliation.



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Question 7: In circumstances where Title IX violations warrant a recommendation for expulsion, how do these two processes intersect?

If a student has been found to have engaged in sexual harassment in violation of Title IX, that conduct may also constitute an expellable offense. The evidence collected against the student could be used during an expulsion hearing. However, the expulsion hearing does not preempt the process described in the Title IX regulations and policies.