

# Title IX in K12 Schools: Discerning Harassment and Discrimination from Cultural and Age Appropriate Behaviors

## *Obligations & Responsibilities*

### *EquiLearn Virtual Roundtable*

Dr. Hollie Mackey, MAP Center Equity Fellow – Oklahoma

#### OBLIGATIONS UNDER TITLE IX

- Take immediate and appropriate action to investigate or determine what occurred. The district is responsible once a school knows or reasonably should know of possible sexual violence.
- If sexual violence occurred, take prompt and effective steps to end the sexual violence, prevent its recurrence and address its effects.
- Take the appropriate steps to protect complainant, even prior to the final outcome of the investigation, and offer services to respondent to ensure equitable outcome.

#### Special Considerations:

Title IX in the LGBTQ community includes sexual violence, dating violence, and stalking. These students comprise a vulnerable population that are targeted at disproportional rates.

#### STUDENT DISCIPLINE AND TITLE IX: POLICY CONSTRUCTION

- Identify who has jurisdiction/authority over Title IX complaints.
- Define sexual harassment, sexual violence, sexual assault, dating violence, domestic violence, stalking, and hostile environment.
- Delineate reporting protocols for all personnel.
- Stress the importance of confidentiality and determine who evaluates requests.
- Include clear prohibition on retaliation.
- Ensure complainants understand they have the right to file both criminal *and* Title IX complaints.
- Include notice of interim measures and options for assistance within policies.
- Include a detailed description of prompt, fair, and impartial procedures that include investigation, resolution and remediation.
- Include language specifying notice officials involved will be trained annually and the frequency of training for all others.
- Ensure both parties have the opportunity to have advisors of their choice with them.
- Outline the rights of parties regarding attendance at a hearing, witnesses, etc.
- Define the Preponderance of the Evidence standard.
- Provide language of equal notice of interim measures, final outcome, and appeal.
- Clearly specify potential sanctions.

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Think about how your policies apply to off-campus applications, how you will investigate, collect evidence, meet timeliness standard, and work with law enforcement.

Title IX Applies to any grievance or student disciplinary procedure where sexual harassment/sexual violence will be at issue.

#### RESPONSIBILITIES OF A TITLE IX COORDINATOR

- Design, oversight, distribution and implementation of Title IX policies.
- Development and implementation of institution-wide educational programs, including Title IX training.
- Development of accessible support materials setting forth relevant resources.
- Oversight of all Title IX complaints, including:
  - Grievance initiation and processing
  - Interim measures (where appropriate)
  - Documentation and notice
  - Non-retaliation
- Coordination with on and off campus law enforcement.
- Ongoing review and identification patterns of discrimination using climate surveys, for example, and/or systemic problems and development of measures to address.
- Preparation of reports.
- Ability to demonstrate institutional commitment to compliance.
- Evaluate Requests for Confidentiality.
- Provide Training to Students, Faculty and Staff.
- Conduct Title IX investigations.
- Determine facts, appropriate interim measures, appropriate sanctions, and remedies.

**Dr. Hollie Mackey** is an Associate Professor of Women's and Gender Studies at the University of Oklahoma. Her research examines indigenous women in educational leadership, American Indian education policy, Title IX and disability law and ethics, and equity literacy through critical postcolonial and indigenous frameworks. She is the recipient of the 2009 Harold F. Martin Outstanding Teaching Award, the 2013 D. J. Willower Center for the Study of Leadership and Ethics Award for Excellence, and the



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2014 Jack A. Culbertson Award for outstanding accomplishments as an assistant professor of educational leadership. She serves as the Associate Co-Director for the Barbara L. Jackson Scholars Network through the University Council for Educational Administration and the Oklahoma Equity Fellow for the Midwest and Plains Equity Center.

Dr. Mackey's publications can be found in Wiley, Information Age, Emerald, Rowman and Littlefield, Lawrence Erlbaum Associates, and Routledge Publishers and in the *International Journal for Qualitative Studies in Education*, *Mentoring and Tutoring*, the *Journal of Educational Administration*, the *Journal for Critical Thought and Praxis*, and the *eJournal for Education Policy*, the *International Journal of Education Policy and Leadership*, and *Teachers College Record*.