

Public School Employees' Responsibilities Under Title IX

Training Module 1

All Employees

OSPI's Equity and Civil Rights Office

August 1, 2024



Module Summary and Instructions

Purpose: To assist Washington Local Education Agencies (LEAs) in meeting updated employee training requirements under the 2024 Title IX Final Rules, which go into effect on August 1, 2024.

Audience: All LEA employees

Training requirement: This training module covers:

- 1) The LEA's obligation to address sex discrimination in its education program or activity;
- 2) The scope of conduct that constitutes sex discrimination and sex-based harassment under Title IX; and
- 3) All applicable notification and information requirements under 34 C.F.R. § 106.40(b)(2) and 106.44.

Time needed for training: Approximately 15 minutes.

Frequency of training: All employees must be trained promptly upon hiring and then annually from that point forward.

Legal Authority: 34 C.F.R. 106.8(d)(1).



Intended Audience and Topics Covered

This module is for **all LEA employees**. It will cover two primary topics:

Key Terms and Definitions

Employees' Specific Obligations



34 C.F.R. §106.8(d)(1)





Key Terms and Definitions



Title IX

*“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...”*

20 U.S.C. §1681



Sex Discrimination

The **unfair or unequal treatment or harassment** of a person or group based on **sex**:

- Sex stereotypes
- Sex characteristics
- Pregnancy or related conditions
- Sexual orientation
- Gender identity



Sex Stereotypes & Sex Characteristics

Sex Stereotypes

- Targeting a student because they don't conform to traditional ideas of how members of their sex should act, look, dress, or behave.

Sex Characteristics

- Targeting a student because of a physiological trait usually associated with male or female bodies.



Pregnancy Or Related Conditions

Pregnancy

- Targeting a student because they are, have been, or could be **experiencing pregnancy, childbirth, termination of pregnancy, or lactation.**

Related Conditions

- Targeting a student because they are **experiencing or recovering from a medical condition** related to pregnancy, childbirth, termination of pregnancy, or lactation



Sexual Orientation & Gender Identity

Sexual Orientation

- Targeting a student because of **who they are romantically, physically, or sexually attracted to**, whether gay, straight, bisexual, etc.

Gender Identity

- Targeting someone because of their **inherent sense of their own gender**, whether transgender, cisgender, nonbinary, etc.



Sex-Based Harassment

Harassing conduct or communication that (1) is based on sex *and* (2) fits one of three definitions:

1. Quid pro quo harassment;
2. **Hostile environment harassment**; *or*
3. One of four specific offenses.



1. Quid Pro Quo Sex-Based Harassment

Occurs when employee, agent, or other person with similar authority conditions an educational benefit, aid, or service upon a person's participation in unwelcome sexual conduct.

For example:

- *A teacher offering a student a good grade in exchange for a sexual relationship.*
- *A coach promising a player more game time if the player provides sexually explicit pictures.*



2. Hostile Environment Sex-Based Harassment

Hostile Environment Sex-Based Harassment: Conduct or communication that is:

- 1) Unwelcome,
- 2) Sex-based,
- 3) Both subjectively and objectively offensive, *and*
- 4) Creates a “**hostile environment.**”

34 C.F.R. §106.2



Unwelcome Sex-Based Conduct Can Include:

Rumors, slurs,
& pejoratives

"Jokes,"
whistling, &
catcalling

Sexting,
memes, &
videos

Threats,
intimidation,
& violence

Rape &
forcible sexual
contact



Subjectively and Objectively Offensive

The conduct must be perceived as offensive not only by the student experiencing it but also by a reasonable person in the targeted student's position.



Creating a Hostile Environment



The harassment is so **severe or pervasive** that it limits or denies a student's ability to participate in or benefit from the school's education program or activity.



Signs That A Student May Be Experiencing a Hostile Environment Can Include:

- A sudden lack of interest in school or in a preferred extracurricular activity
- Deteriorating mental or physical health
- Increased absences or school refusal
- More frequent discipline referrals or behavior issues
- Slipping grades
- A desire to avoid certain people or places at school
- Etc.



3. Specific Offense Sex-Based Harassment

Sexual
Assault

Dating
Violence

Domestic
Violence

Stalking





Employees' Specific Obligations



Every single employee has an obligation to help their LEA comply with Title IX.



Some employees may also be asked to take on **additional Title IX responsibilities.**



Employees' Title IX Obligations

Once on notice, employees must take steps to **prevent and address possible sex discrimination** that happens in any school program or activity.

34 C.F.R. §106.44



For Employees, Preventing and Addressing Sex Discrimination Includes:

- **Recognizing the type of conduct** that could be sex discrimination or sex-based harassment.
- **Responding promptly and effectively** once on notice of possible sex discrimination;
- **Supporting students** who are involved in or impacted by the conduct.

**Some employees (i.e., those with additional Title IX responsibilities) may also have an obligation to help resolve complaints promptly and equitably.*



“On Notice”

A LEA is on notice when **any employee knows or should have known** about possible sex discrimination, including sex-based harassment

For example:

- A teacher receives a complaint
- A student or family contacts the school’s soccer coach with their concerns
- A bus driver witnesses harassing conduct or hears about it in the media
- A custodian finds sexist graffiti in a school locker room
- A paraeducator overhears homophobic slurs being openly exchanged between students in the classroom
- Harassment is happening during activities under staff supervision (e.g., recess, lunch, hallway, etc.)
- The harasser is an employee or volunteer



Notify the Title IX Coordinator

Once on notice of possible sex discrimination, an employee must **promptly notify their LEA's Title IX Coordinator.**



34 C.F.R. §106.44(c)



Support & Protect Students

Employees may also be asked to take steps to **support and protect** students involved in an incident.

For example, an employee may be asked to:

- Escort a student between classes;
- Provide extra supervision in the hallways or on a school bus;
- Revise a classroom seating chart to make sure the parties are separated;
- Extend a deadline or reschedule a test; or
- Offer counseling to a student.



Support & Protect Pregnant Students

Once **any** employee has been told about a student's pregnancy or related condition, the employee must:

1. Give the student the Title IX Coordinator's contact information; and
2. Explain how the Title IX Coordinator can help prevent sex discrimination and ensure the student's equal access.

34 C.F.R. §106.40)(b)(2)





Key Takeaways & Additional Resources



Key Takeaways

1. Title IX prohibits sex discrimination in any public school program or activity.
2. The definition of “sex” now explicitly includes sex stereotypes, sex characteristics, pregnancy/related conditions, sexual orientation, and gender identity.
3. Once on notice of possible sex discrimination, employees must take steps to respond promptly and effectively, which includes:
 - a. Notifying the Title IX Coordinator
 - b. Supporting and protecting students



Additional Resources

Federal Resources

- [Official Publication](#) of the 2024 Title IX Final Rule
- [Fact Sheet & Overview](#) of the 2024 Title IX Final Rule
- [Summary](#) of the Major Provisions of the 2024 Title IX Final Rule
- [Title IX Regulations: Pointers for Implementation](#)

OSPI Resources

- [Bulletin No. 046-24](#): Guidance on the 2024 Title IX Rules & Responding to Sex-Based Discrimination in Washington's K-12 Schools
- Look up your LEA's Title IX Coordinator in [OSPI's compliance coordinator directory](#)



Additional Questions? Contact us.

OSPI's Equity and Civil Rights Office

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