



**K-12 Title IX Training Series:
Level 3 Practicum for Title IX Coordinators**



Bricker & Eckler
ATTORNEYS AT LAW

Disclaimers

- We are not giving you legal advice
- Consult with your legal counsel regarding how best to address a specific situation
- Yes, we will send you a copy of the slides
- We will have a few breakout rooms for discussion
- Please put any other questions in the chat and we'll answer as time permits

Posting These Training Materials?

- Yes!
- The Title IX Coordinator (TIXC) is required by 106.45(b)(10)(i)(D) to post materials to train Title IX personnel on their district's website
- We know this and will make these slides available to your district to electronically post

Additional information
available at:

Title IX Resource Center

www.bricker.com/titleix

Find us on **Twitter** at
@BrickerEdLaw



One Full Year of Implementation – What We've Learned

- Title IX Coordinators (TIXCs) must coordinate **ALL** the District's efforts to comply with Title IX
- TIXC is the only position that the regulations **REQUIRE** be school district employee
- Many TIXCs are finding these responsibilities to be a **FULL-TIME** job
- TIXCs are often the ones who are educating the whole TIX team and their districts' administrators

Agenda – Top Ten Duties for TIXCs

- Know your policy, procedure, role, and team members
- Receiving Notice of an Allegation (NOA)
- Initial TIXC responsibilities after receiving NOA
- Issue the NOA to all parties
- Refer to an appropriate and trained investigator
- Explore or facilitate Informal Resolution
- Facilitate the inspection and review of evidence
- Coordinate the dissemination of reports and decisions
- Process any appeal
- Implement sanctions, remedies, and supportive measures

Breakout Room #1

- What is the **most surprising thing** you've learned about the Title IX process in this past year of implementation?



Our Scenario

Poll #1 – What Should Happen Next?

- A. Principal Rooney should interview Robert and issue discipline if warranted
- B. Principal Rooney should talk to Robert, issue discipline if warranted, **AND** tell the TIXC about it
- C. Principal should stop and call the TIXC before anything else happens



Back to Our Scenario

Breakout Room #2

- What has gone wrong with the District's response to these allegations so far?
- What should they do to correct any errors?

Importance of Knowing Policy, Procedure, Role, and Team Members

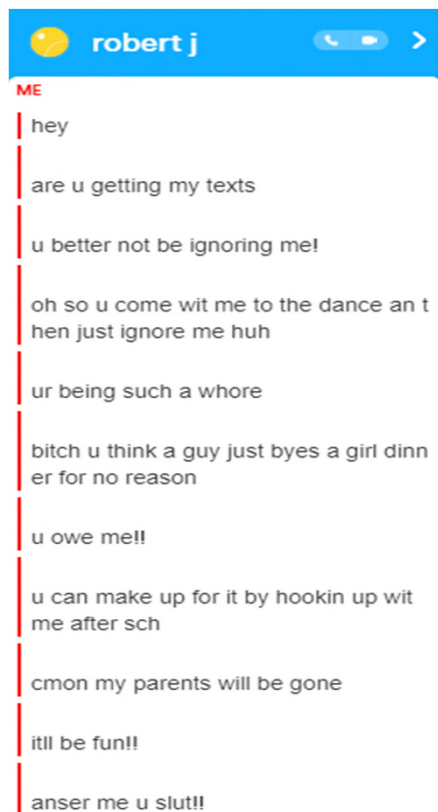


- Important for all TIX team members **AND** all administrators who investigate code of conduct violations and/or issue discipline
- **Remember** – this is different than the process they're used to



Back to Our Scenario (2)

Scenario – Screenshots Shared by Complainant



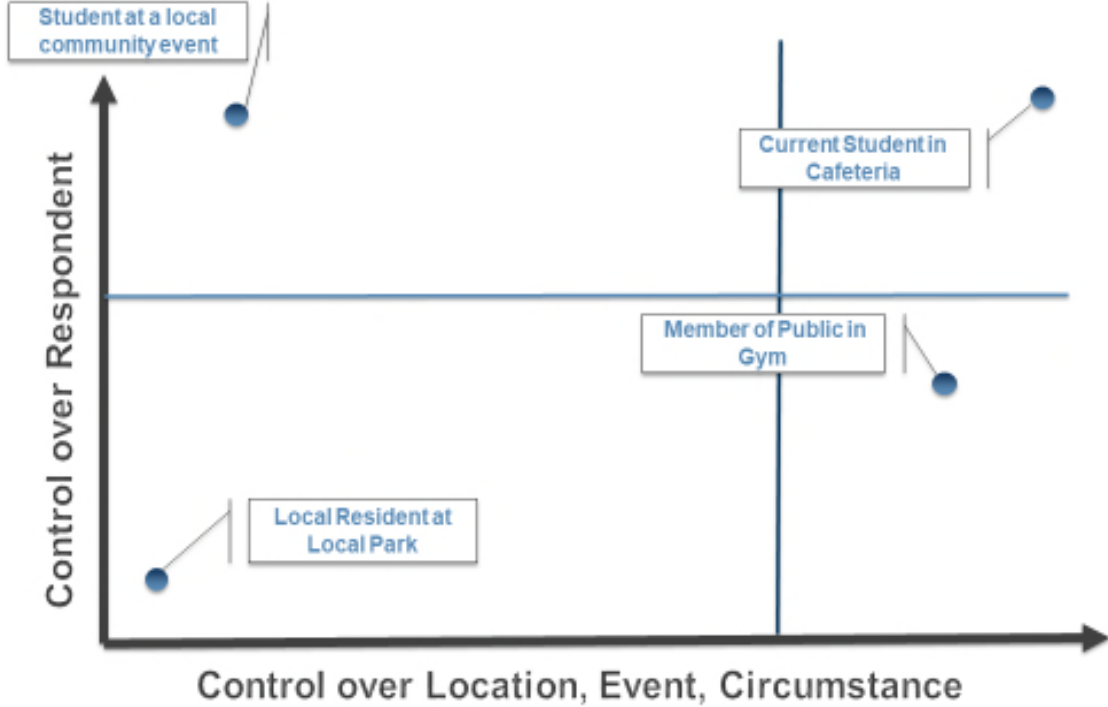
Breakout Room #3

- What steps should the TIXC take in response to receiving the NOA?
- Has enough relevant information been gathered in this initial intake meeting?
- Is there Title IX jurisdiction over the NOA?
- What are your thoughts about the discussion of supportive measures between the complainant and TIXC?

What Happens Once The District Is On Notice?

- Respond in a manner that is **not deliberately indifferent**, which means:
 - You must take action
 - Follow your policy
 - Eliminate, prevent recurrence, remedy effects
- Remember **mandatory reporter** obligations

Determining Jurisdiction



When *Must* You Dismiss for Lack of Jurisdiction?

- Conduct would not constitute sexual harassment even if proved
- Conduct did not occur within your program or activity
- Conduct did not occur against a person in the United States

Supportive Measures

- Extend and **document** supportive measures
 - Consider **complainant's wishes** with respect to supportive measures
 - Inform complainant of availability of supportive measures **with or without filing a formal complaint**
- Must be **non-disciplinary** and **non-punitive**
 - Cannot **unreasonably burden** the other party
 - TIXCs are the **sole individual responsible** under the regs for effective implementation of supportive measures

Emergency Removal

- Only after conducting an **individualized safety and risk analysis**
- Only when a student respondent poses an immediate threat to the **physical** health or safety of any individual arising from the allegations at issue
- If district determines the student respondent poses such a threat, the student must be **notified** and offered an **opportunity to challenge** the decision immediately following the removal



Let's take a short break...

Notice of Allegations to All Parties

- **Must** include **sufficient details** known at the time (and be **supplemented** if any new allegations arise)
- **Must** give parties **sufficient time** to prepare a response **before** any initial interview
- **Must** include statement that **respondent is presumed not responsible** – that a determination regarding responsibility will be made at the **conclusion** of the process

Notice of Allegations to All Parties (2)

- **May** inform the parties that an **investigator** has been assigned
- **Must** inform the parties that they may have an **advisor**
- **Must** inform the parties that the district **prohibits** knowingly providing **false statements/information** in the process
- **May** include information about how parties can seek **supportive measures**
- **May** include any notice of allegations that **other policies/code of conduct provisions** may be considered

Informal Resolution

- Districts **may** include possibility of IR in their policies
- IR **never an option** for staff/student allegations
- Districts **may** put other restrictions on its use
- Any IR Officer **must** be **appropriately trained**

Inspection and Review of Evidence



- Parties must have an **equal opportunity** to inspect and review the evidence

Poll #2

Do you know, **in your district**, who on the TIX team is responsible for facilitating this inspection and review of evidence?

- A. Investigator
- B. TIXC
- C. Someone else
- D. Don't know



Back to Our Scenario (3)

Breakout Room #4

- Identify **at least three things** in the last scene that the TIXC should have corrected, and **why**

Dissemination of Reports and Decisions

- Three additional areas where “the recipient” (the district) must share, provide, or disseminate something:
 - Investigative Report
 - Written Determination
 - Notice of Right to Appeal
- If not otherwise specified by your policy, this would fall to the TIXC

Appeals

- TIXC must offer the parties an **equal opportunity** to appeal:
 - Determination regarding responsibility
 - Dismissal of a formal complaint (or any allegations therein)
- TIXC must provide **written notice** to other party if appeal filed
- Appeal decision-maker **cannot** be previous decision-maker, TIXC, or investigator
- TIXC must provide Appeal Determination to the parties **simultaneously**

Sanctions, Effective Remedies, and Supportive Measures

- TIXC is **responsible for effective implementation** of:
 - Sanctions
 - Effective Remedies
- TIXC must also extend and implement long-term or permanent **supportive measures**, and serve as the **point of contact** to ensure they're being implemented

Other TIXC Duties

- Address **retaliation** via TIX policy, should it arise
- Create and maintain, for **seven years, records of any actions** (including **supportive measures**) taken in response to a report/complaint of sexual harassment

Checklist: “Top Ten” Duties for a Title IX Coordinator (TIXC)



- 1. Know your policy, procedure, role, and team members
- 2. Receive Notice of an Allegation (NOA)
- 3. Know initial TIXC responsibilities after receiving NOA
- 4. Issue the NOA to all parties

TIXC Checklist

Bricker's Title IX Toolkit

Available for download: k12tixtoolkit.bricker.com

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Questions?

Bricker's Title IX for K-12 Training Series

Level 1

- General training for all K-12 staff

Level 2

- Title IX Coordinator/Administrator
- Investigator
- Report Writing for investigators and decision-makers
- Decision-Maker and Appeals Officer
- Informal Resolution Facilitator

Now Added: **Level 3** advanced training for your K-12 Title IX Team!

- Title IX Coordinator
- Investigator
- Report Writing
- Informal Resolution Facilitator

View dates and register at www.bricker.com/titleix

Thank you for attending!

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- 3. Know initial TIXC responsibilities after receiving NOA
- 4. Issue the NOA to all parties
- 5. Refer to an appropriate and trained investigator
- 6. Explore or facilitate Informal Resolution
- 7. Facilitate the inspection and review of evidence
- 8. Coordinate the dissemination of reports and decisions
 - Investigative Report with Notice of Right to Respond
 - Written Determination to parties simultaneously
 - Notice of Right to Appeal
- 9. Process Any Appeal
- 10. Implement sanctions, effective remedies, and/or extend long term or permanent supportive measures