

Compliance Training for the Title IX Team

2022 Title IX Training Academy Module 1

Sept. 19, 2022

Presented by:

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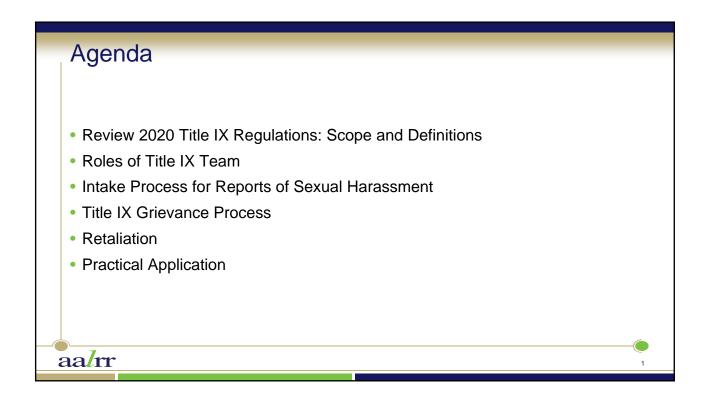
Module 1: Compliance Training for the Title IX Team

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September 19, 2022

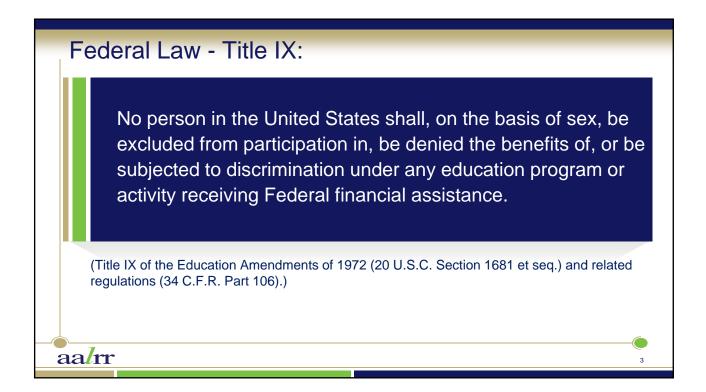
PRESENTED BY: *Eve P. Fichtner, Partner Anna J. Miller, Senior Counsel*



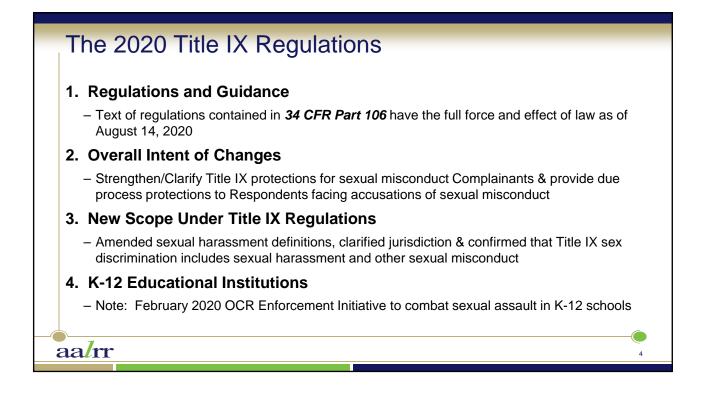


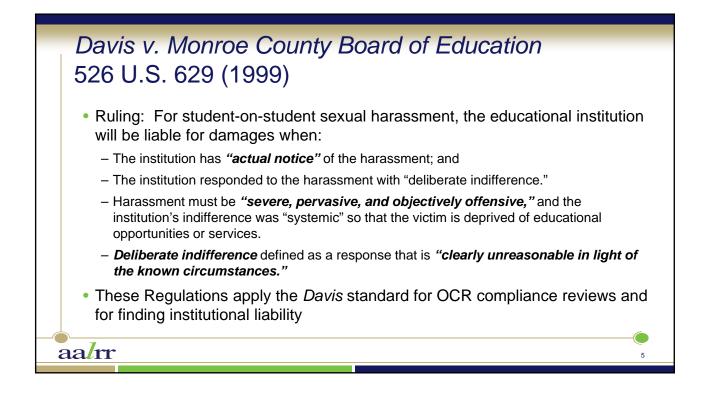










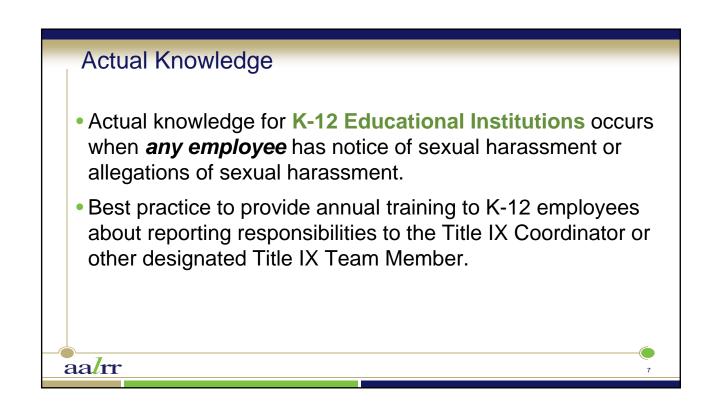


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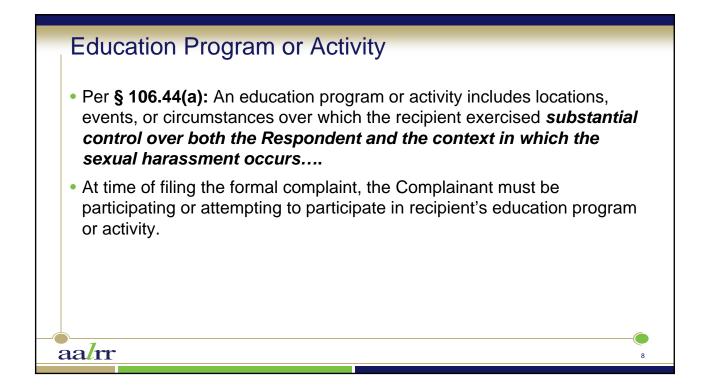


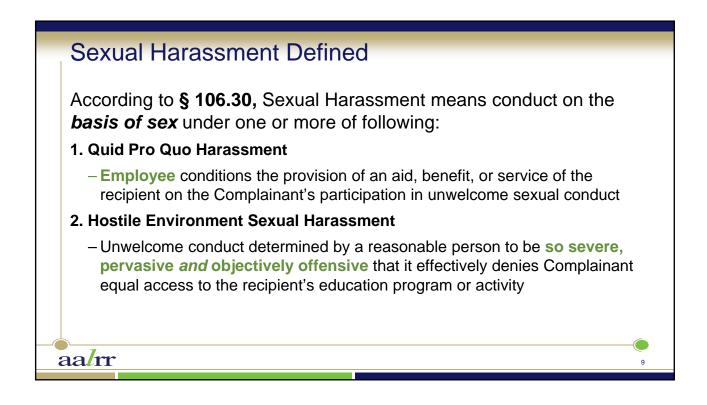
Response to Sexual Harassment

According to **34 CFR §106.44(a)**: A recipient with **actual knowledge** of sexual harassment in an education program or activity of the recipient against a person in the United States must **respond promptly in a manner that is not deliberately indifferent** (e.g., clearly unreasonable in light of the known circumstances).

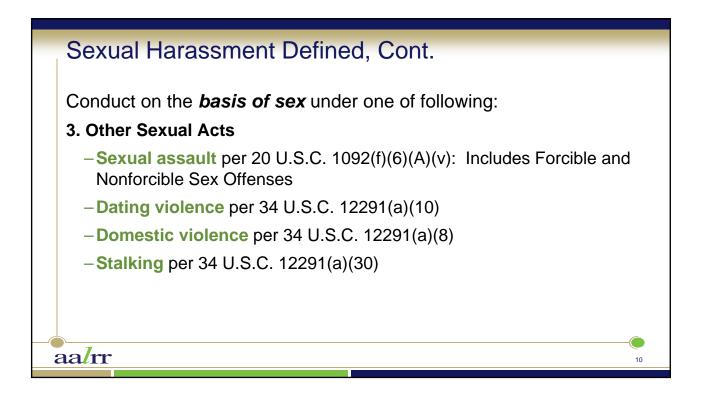


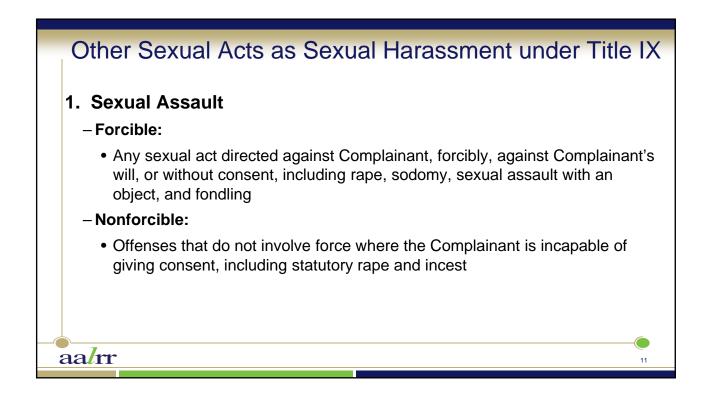




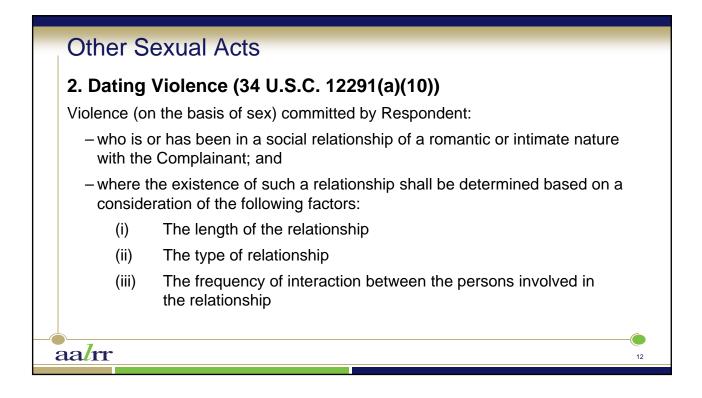


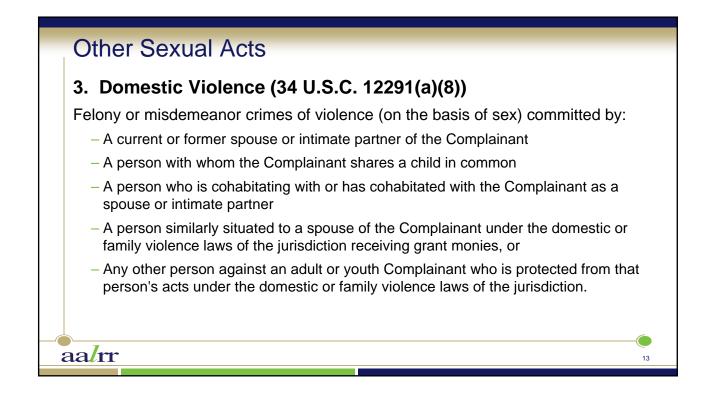




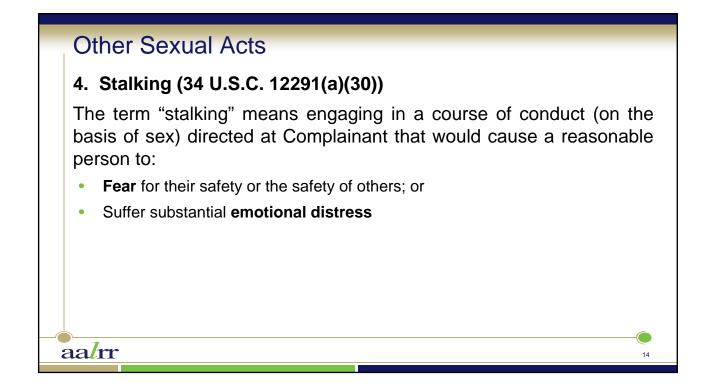






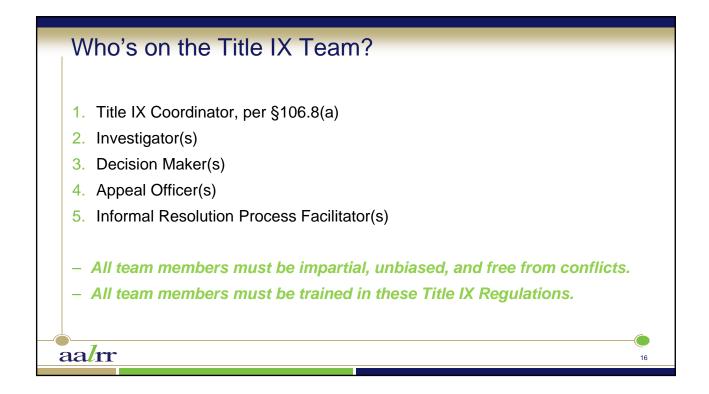


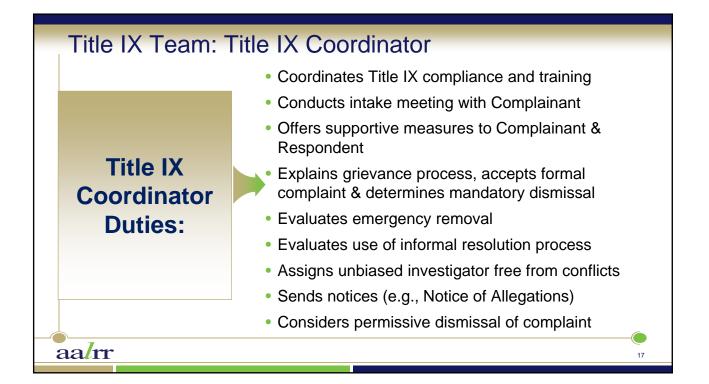




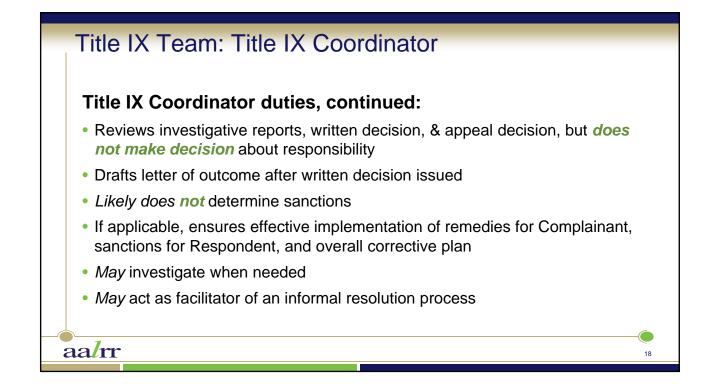












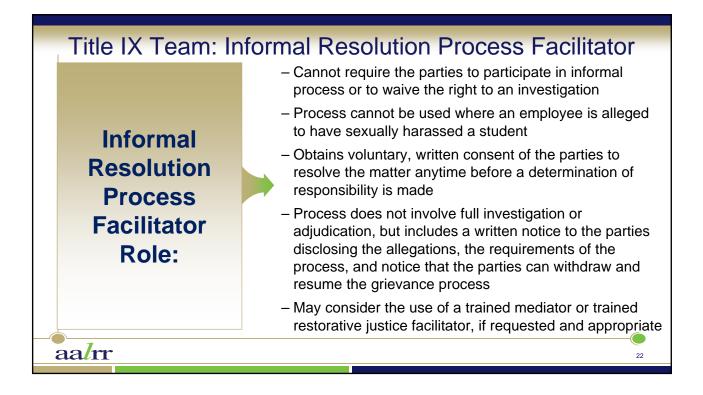




Title IX Team: Decision Maker		
	 Reviews Final Investigative Report with "fresh eyes" to see if information is missing or incomplete 	
Decision Maker Role:	 Facilitates relevant written questions & "cross- examination" from parties for parties and witnesses 	
	 Makes conclusions about whether alleged conduct occurred and determines responsibility 	
	 Prepares written determination with findings of fact, policy conclusions, and rationale for the result as to each allegation 	
	 If applicable, recommends sanctions for Respondent and remedies for Complainant 	
	 Provides written determination to the parties and advisors simultaneously; notice of appeal rights 	
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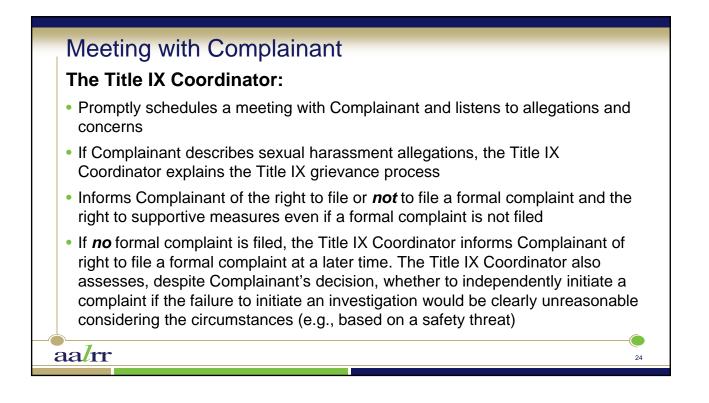
Title IX Team: Appeals Officer – Implements the right to appeal for both parties based on three grounds for appeal		
	 If an appeal is filed, the Appeal Officer evaluates the appeal request(s) to determine if within the scope of appeal 	
Appeal Officer Role:	 Provides a written Notice of Appeal to both parties 	
	 Reviews both written statements and arguments from the parties 	
	 Renders written decision on appeal and explains rationale for the result 	
	 Provides the written decision to parties at same time 	
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Meeting with Complainant

The Title IX Coordinator:

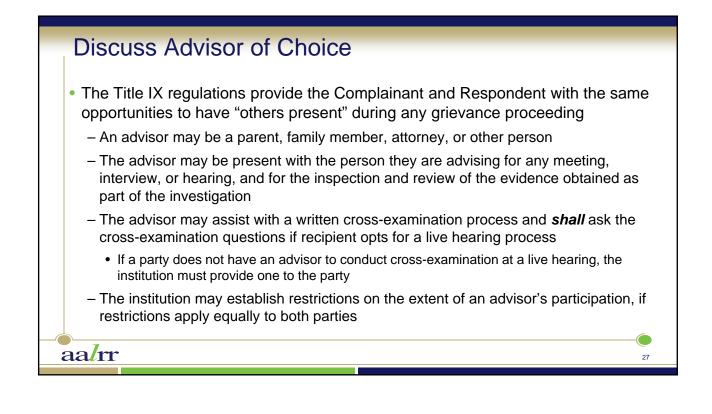
- If a formal complaint is filed, Title IX Coordinator gathers the signature of Complainant, parent/guardian and/or Title IX Coordinator
- Informs Complainant of right to request an informal resolution process after submission of a formal complaint and the right to exit informal resolution process at any time
- If a formal complaint is filed, Title IX Coordinator determines if the complaint falls within the scope of mandatory dismissal and simultaneously informs Complainant and Respondent in writing
- Best practice to provide a written summary of the intake meeting to the Complainant

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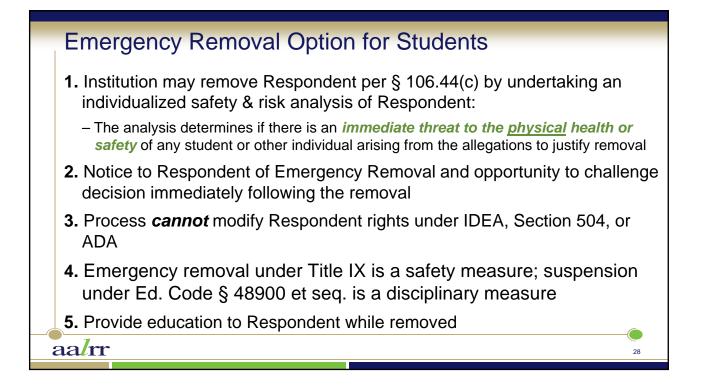
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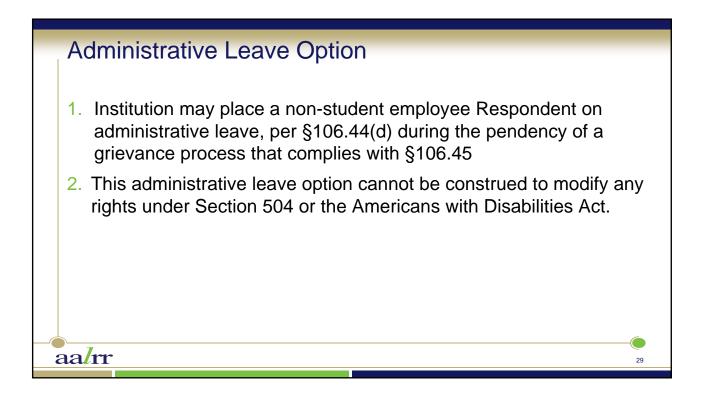






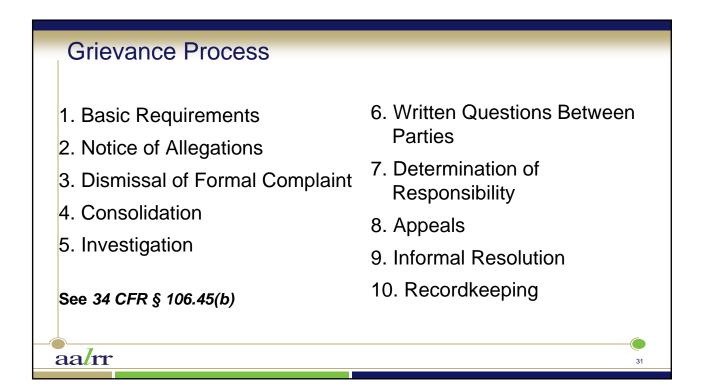




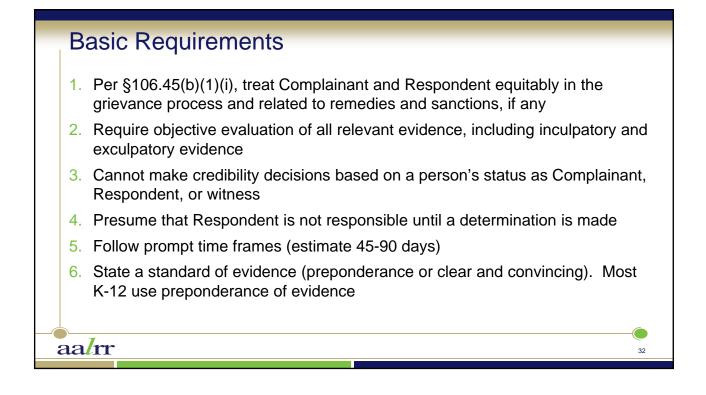






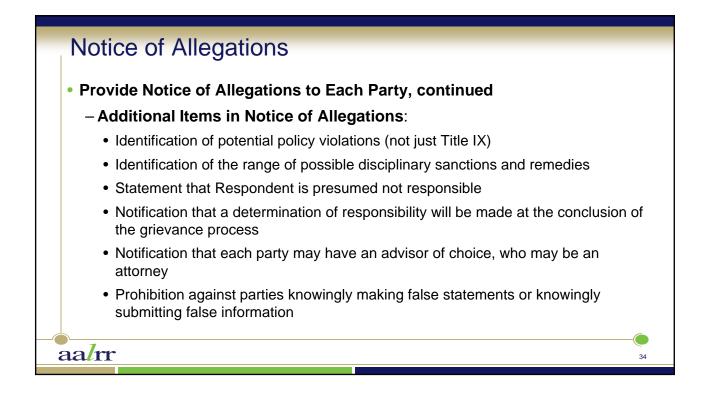


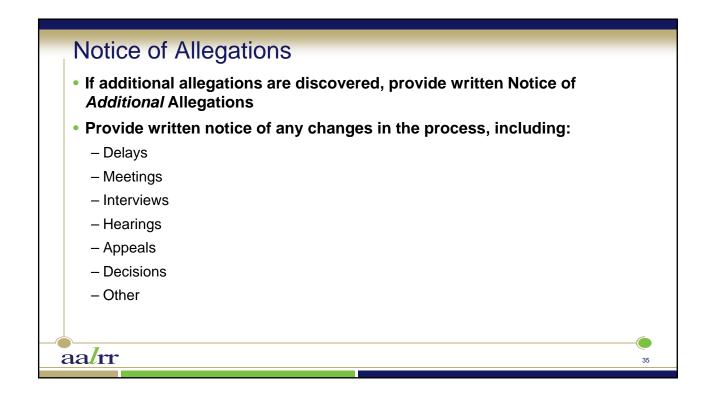




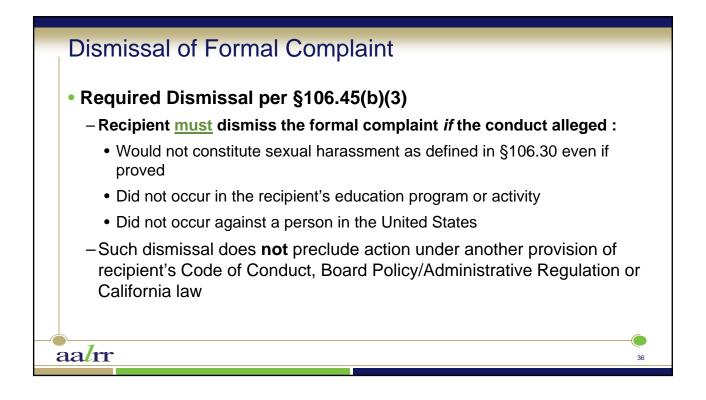


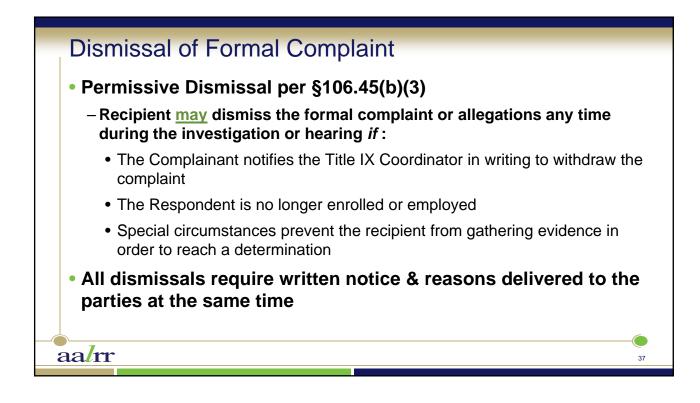




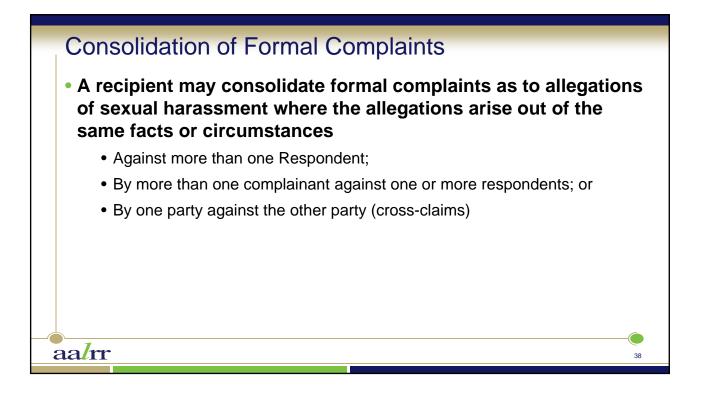


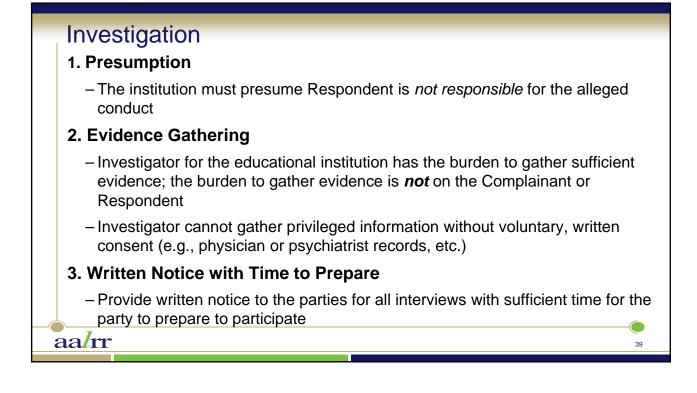




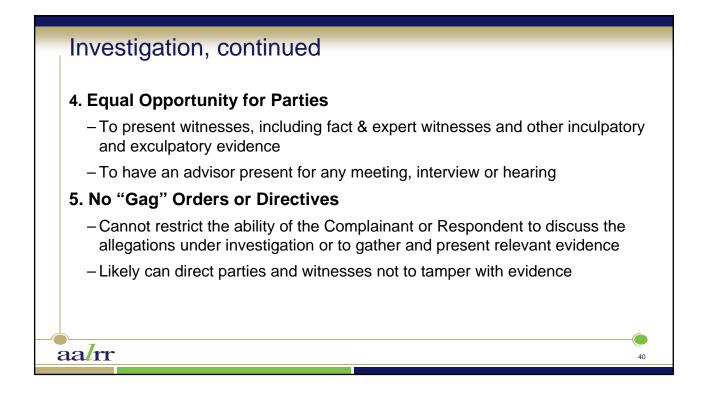


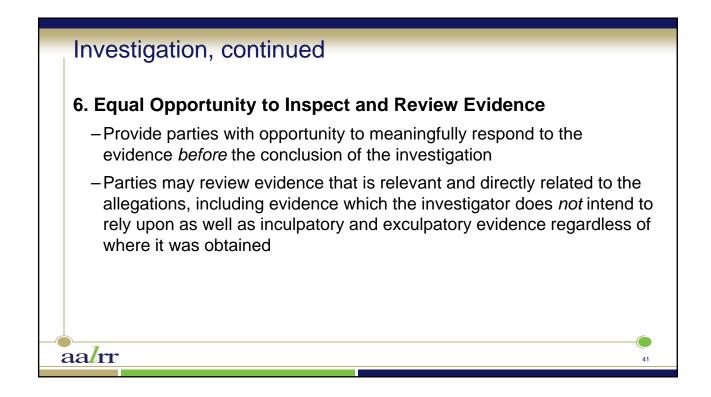




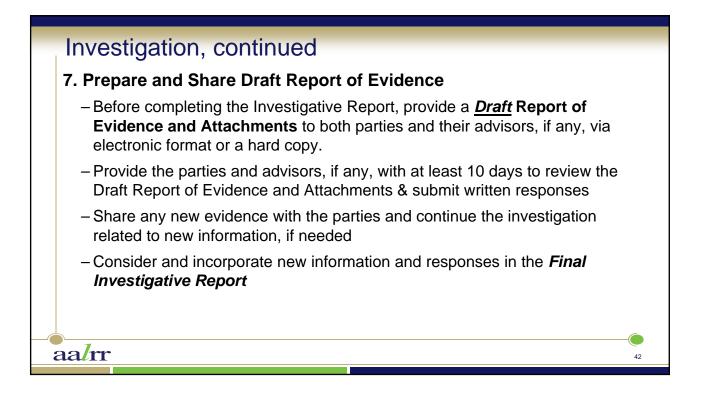


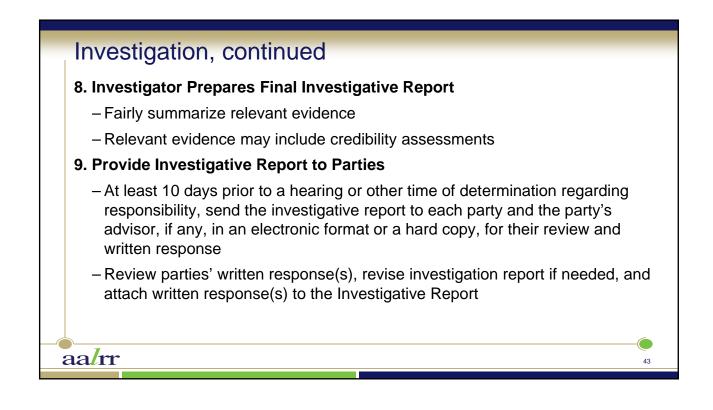




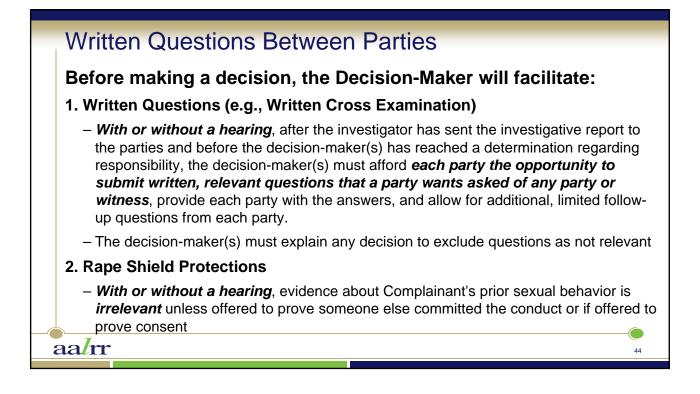


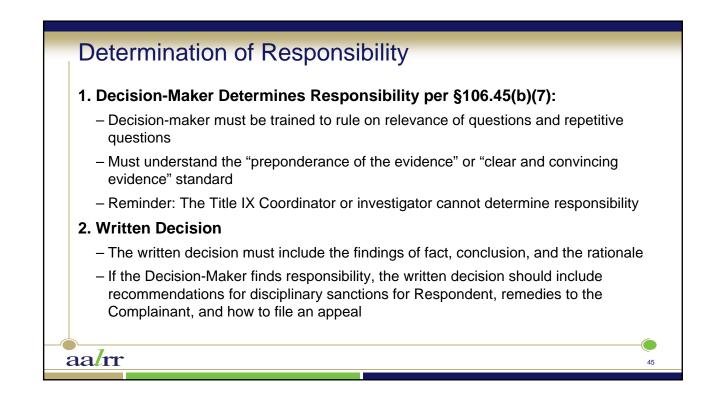




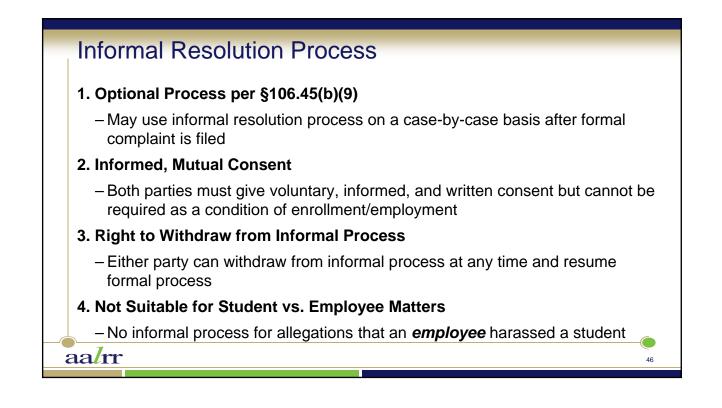


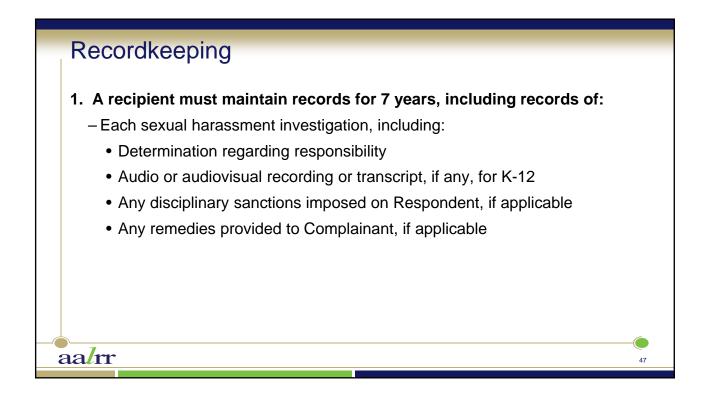




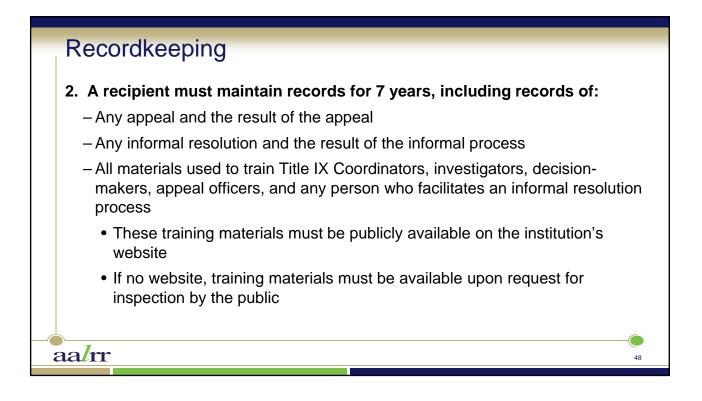


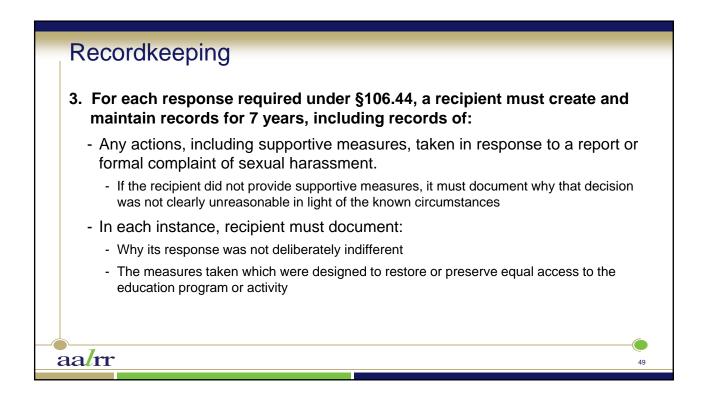




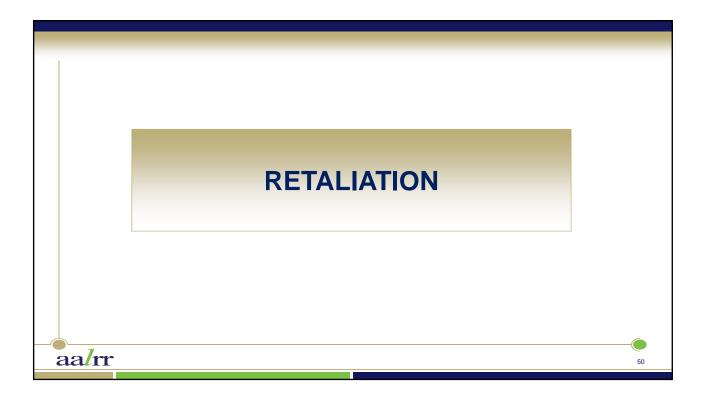












Retaliation

1. Section 106.71(a) – Retaliation Prohibited

 No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing.

2. Avoiding the Title IX Process May Be Retaliation

 If the alleged behavior falls under Section 106.30 definitions, a recipient cannot use the student conduct process as a way to avoid the rigorous Title IX grievance procedures; such a decision may constitute retaliation.

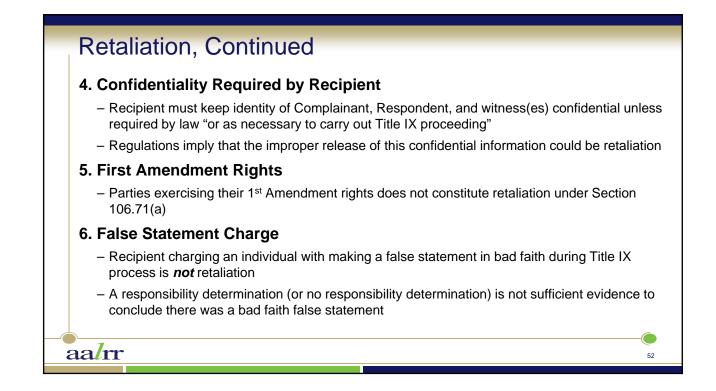
3. Retaliation Complaints Filed Under Same Process

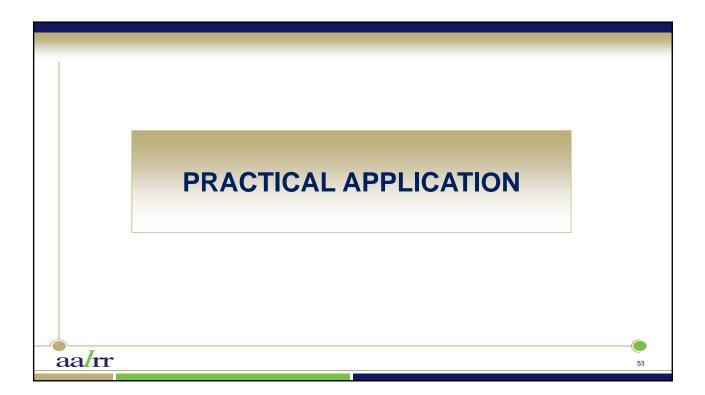
- Retaliation complaints may be filed under the Section 106.8(c) grievance process.

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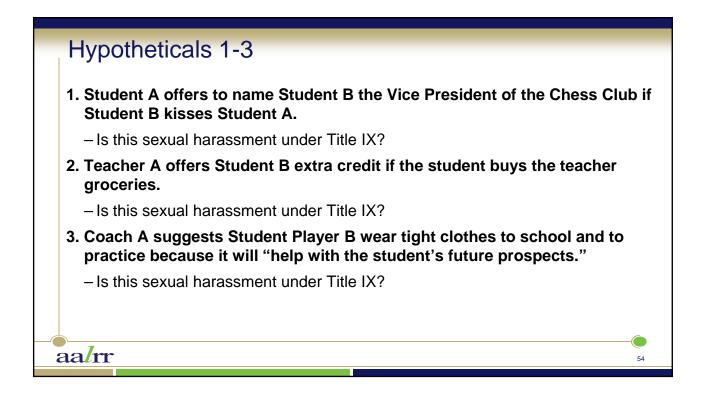
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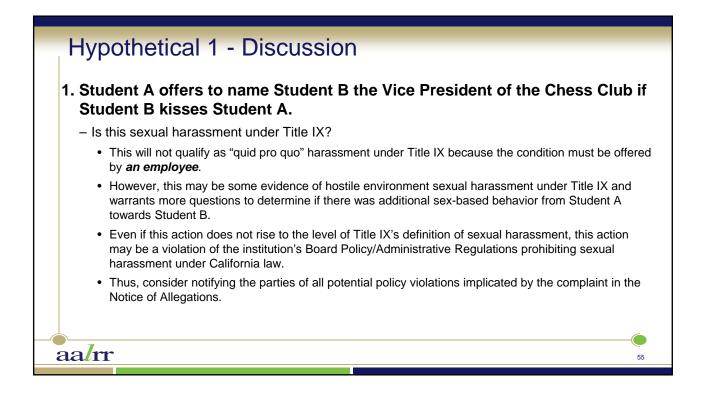




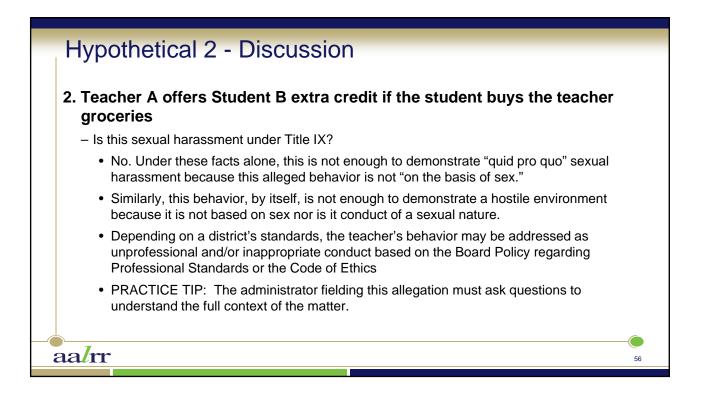


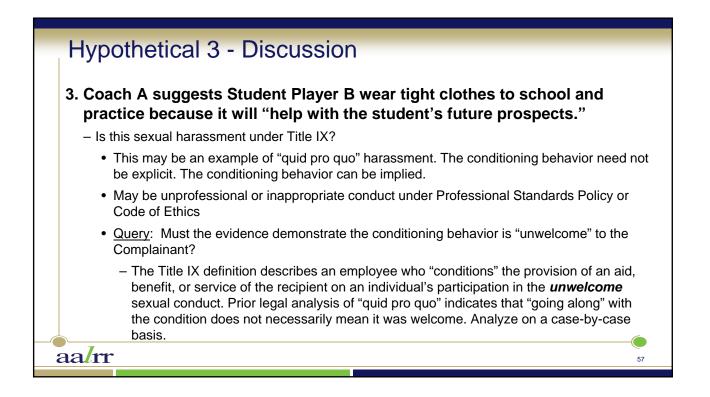




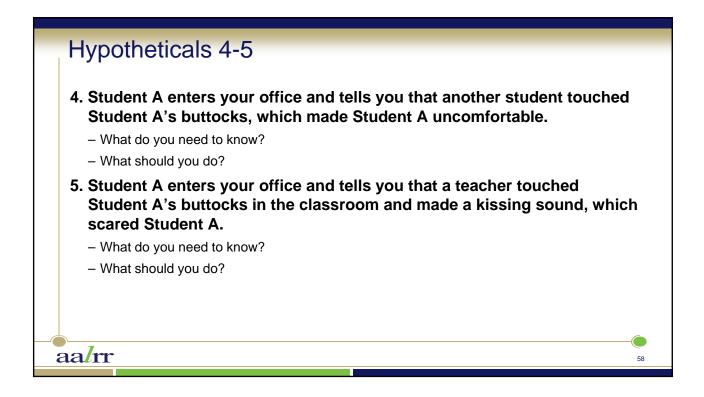


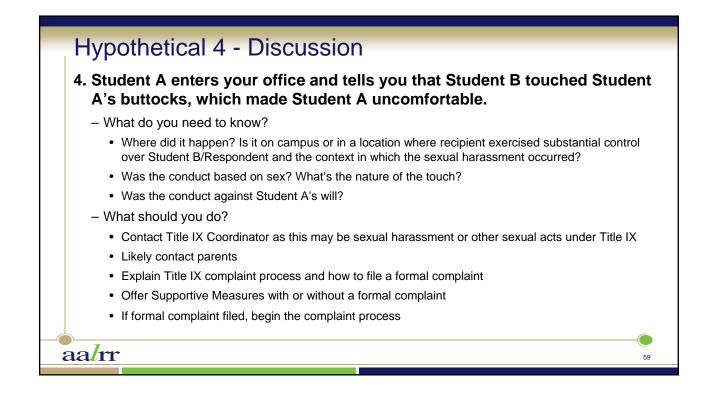




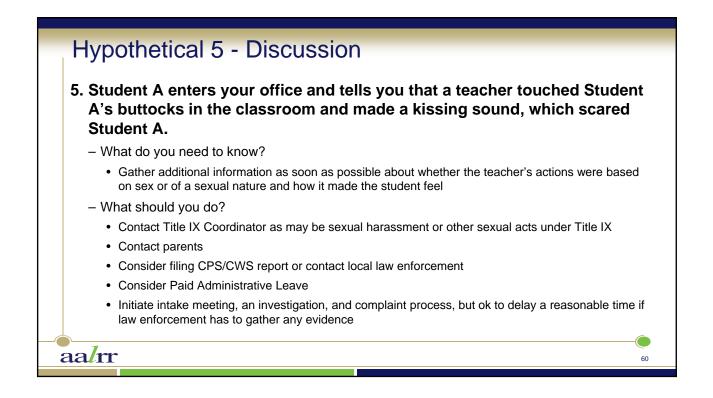
















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I go beyond identifying potential legal problems. I try to anticipate our clients' strategic options which are consistent with their values.

Eve Peek Fichtner represents school districts, county offices of education, community colleges, and private employers for personnel matters, student issues, and all forms of discrimination and harassment claims. Ms. Fichtner has certification and significant experience conducting impartial, prompt, thorough, and effective workplace investigations and Title IX investigations. She also serves as a hearing officer for K-12 expulsion matters and for Title IX hearings with the University of California, the California State University system, and private universities. In addition, Eve provides resolution-based services to clients, including workplace coaching for employees and supervisors, conflict resolution training, and facilitated meetings.

Ms. Fichtner provides representation, advice, and counsel on numerous school and employment matters, including employee leave, evaluation, discipline and dismissal, student discipline, bullying, reasonable accommodation, interactive meetings, release of public records, search and seizure law, restraining orders, and motions to quash defective subpoenas. Ms. Fichtner has represented clients before state courts and administrative bodies. She has served as General Counsel to several school districts, including Davis Joint Unified School District for over ten years.

Ms. Fichtner is an experienced and effective trainer on a variety of legal issues, including Title IX sexual misconduct matters; prevention of sexual harassment, discrimination, bullying and retaliation; understanding student discipline laws; conducting internal investigations; addressing electronic misconduct; effective conflict resolution techniques; and the FRISK® Documentation Model.

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EDUCATION

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PRACTICE AREAS

Board Governance Discrimination & Harassment Education Employee Performance & Evaluation Equity in Education/Office for Civil Rights Investigations Student Discipline Workplace Training



Eve P. Fichtner

Events & Speaking Engagements

Ms. Fichtner developed a comprehensive Title IX training series for K-12 and CCD's to address the new Title IX regulations released in 2020. She also developed an investigation training seminar, PROOF, which she has presented throughout California. She has prepared and presented workshops on a variety of other topics as well, including sexual harassment prevention, cyber-misconduct, bullying, free speech/religion, the Brown Act, California Public Records Act, employee evaluation, student discipline, and ADA/FMLA.

Publications

Ms. Fichtner contributes to the firm's publications and education law blog.

Community & Professional

Ms. Fichtner served as President of the Camerado Springs Middle School Parents Club for 5 years. Additionally, she is a member of the following organizations:

- Association of Title IX Administrators
- Association of Workplace Investigators
- California Council of School Attorneys
- Sacramento Bar Association, Labor and Employment Section



Anna J. Miller Senior Counsel

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Anna Miller represents public school districts and California community college districts in all areas of general education law; labor relations; employment matters such as discrimination, dismissal and harassment; student issues such as fraudulent receipt of federally issued financial aid, grade disputes, student discipline and harassment charges; and First Amendment rights. She is active in the firm's Title IX group, conducting Title IX investigations and giving presentations on Title IX issues.

Ms. Miller conducts complex workplace investigations for both public and private sector entities, including universities and colleges, school districts, public safety entities, counties and cities; and provides legal counsel on matters involving safety, campus police and human resources. In addition, she has a wealth of experience representing clients in court, arbitration proceedings and administrative hearings.

Events & Speaking Engagements

Ms. Miller frequently gives presentations about Title IX, employment issues, student matters, and other legal topics.

Publications

Ms. Miller has co-authored several American Bar Association publications. She is an active contributor to the firm's Blog Posts, Alerts & articles.

Community & Professional

- Sacramento County Bar Association, Member
- American Bar Association, Labor and Employment Section, Member
- California Council of School Attorneys, Member
- · Women Lawyers of Sacramento, Member

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