

# IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #5

## TITLE IX: COMPLIANT GRIEVANCE PROCESS PT 4

**Annie Hightower, Hightower Consulting, LLC**

**January 2022**

Annie Hightower: [Hightowerconsultingllc@gmail.com](mailto:Hightowerconsultingllc@gmail.com)

# NEXT MEETINGS

- ▶ February, April, May
  - ▶ 4<sup>th</sup> Tuesday at 9 am MT/8 am PT
  - ▶ 4<sup>th</sup> Thursday at 12 pm MT/11 am PT
- ▶ March
  - ▶ 3<sup>rd</sup> Thursday (March 17<sup>th</sup>) at 12 pm MT/11 am PT
  - ▶ 4<sup>th</sup> Tuesday at 9 am MT/8 am PT
- ▶ What topics would you like covered?

# UPDATES AND FOLLOW UP INFORMATION

- ▶ Updates?

  - ▶ ISBA insurance and Title IX

  - ▶ April NPRM

- ▶ Follow up on question about anonymous witnesses

  - ▶ Let witnesses know what will happen with their information up front

# WEBSITE REQUIREMENTS

School websites must include the following:

- ▶ Name/Title of Title IX Coordinator, office address, phone number and email address
  - ▶ Consider including other ways to contact the coordinator, if any
- ▶ School's non-discrimination policy and Title IX compliant grievance procedures
- ▶ All materials used to train Title IX personnel

# REVIEW

# LAST MONTH WE REVIEWED -

- ▶ Investigations – Baseline Considerations
- ▶ Hearings alternatives for K-12 and relevancy of questions about prior sexual history
- ▶ Determinations regarding responsibility

# CONTINUANCE – AFTER RECEIVING FORMAL COMPLAINT – 34 CFR 106.45 REQUIRED GRIEVANCE PROCESSES

# APPEALS

- ▶ MUST OFFER BOTH PARTIES an appeal from:
  - ▶ A determination of responsibility
  - ▶ The dismissal of a formal complaint or any allegations therein
- ▶ Required bases of appeal:
  - ▶ Procedural irregularity
  - ▶ New evidence
  - ▶ Conflict of interest or bias



# APPEALS

- ▶ For all appeals, you must:
  - ▶ Notify the other party **in writing** an appeal was filed
  - ▶ Have a trained, non-biased, and conflict-free appeal decision-maker available
  - ▶ Provide parties an equal opportunity to submit a response
  - ▶ Issue a **written** decision
  - ▶ Provide the decision to both parties at the same time

# INFORMAL RESOLUTION

- ▶ **May** be offered after formal complaint and prior to any decision regarding responsibility
- ▶ Must provide to parties a written notice disclosing:
  - ▶ Allegations
  - ▶ Process requirements
  - ▶ When a party is precluded from resuming a formal complaint – right to withdraw from informal process
  - ▶ Consequences resulting from participating in process
- ▶ Must have voluntary written consent of parties

# INFORMAL RESOLUTION

- ▶ Informal resolution **cannot** be:
  - ▶ Required
  - ▶ Offered unless a formal complaint is filed
  - ▶ **Used to resolve allegations that an employee sexually harassed a student**

# RECORD KEEPING

- ▶ Must maintain for 7 years (also look at district/school policies and state law)
  - ▶ Each investigation file
    - ▶ Anything that needs to be in writing and important documentation should be saved!
  - ▶ Any appeals and results
  - ▶ All materials used to train TIX team + make available on website

# RECORD KEEPING

- ▶ Any other relevant records, such as what a school did even if no formal complaint was filed, or other actions taking during after formal complaint filed
- ▶ Document
  - ▶ Reasoning for action
  - ▶ How action is not deliberately indifferent
  - ▶ Measures taken to restore or preserve access to education
  - ▶ If no supportive measures provided – why?

# WHAT QUESTIONS OR CONCERNS HAVE ARISEN FOR YOU THIS MONTH?

**[hightowerconsultingllc@gmail.com](mailto:hightowerconsultingllc@gmail.com)**

**(208) 389-8050**