



# K-12 Institute for Advancing School Equity, Safety, and Wellness

2022-2023 SCHOOL YEAR

September 2022 – May 2023 Academic Year

2nd Friday of Each Month

1:00pm – 2:00pm ET

## Description:

The K-12 Institute is designed to understand the fundamental structures and processes related to all aspects of the Title IX Coordinator in promoting equity, safety, and wellness in their school district. This course, intended to be taken monthly September through May will build on skills and knowledge to create successful individuals within the Title IX and behavioral intervention arena.

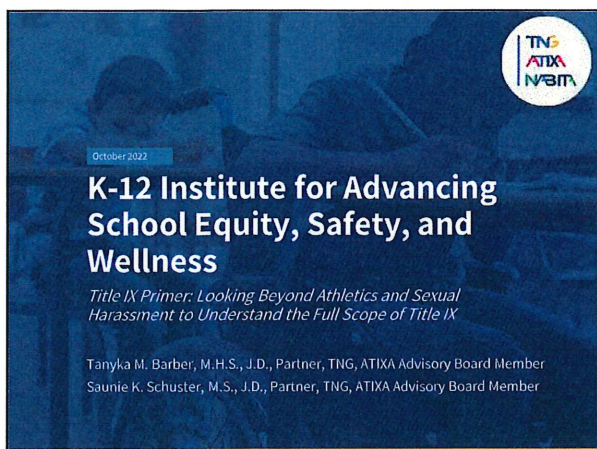


## Learning Objectives

### Participants will...

- Increase knowledge related to the Title IX Coordinator's role in promoting equity, safety, and wellness in the school or district
- Increase knowledge related to how behavioral intervention and/or threat assessment teams support equity, safety, and wellness and intersect with existing teams on campus such as the Title IX team, MTSS team, IEP





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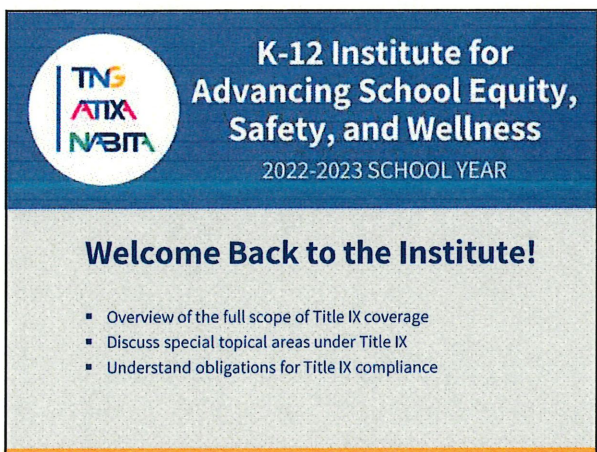
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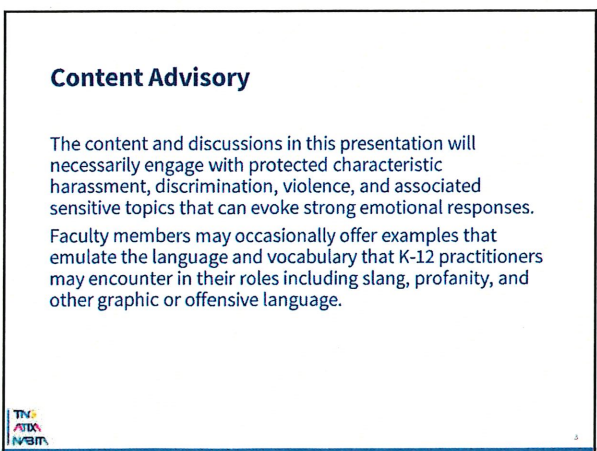
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### Scope of Title IX

- The Law
- Key Title IX-Related Issues
- Role of the Title IX Coordinator

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### Title IX

*20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)*

“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 educational program or activity receiving federal financial assistance.”

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### Key Title IX-Related Issues

<p><b>Sex-Based Discrimination</b></p> <ul style="list-style-type: none"> <li>▪ Program Equity</li> <li>▪ Recruitment, Admissions, &amp; Access</li> <li>▪ Pregnancy</li> <li>▪ Athletics</li> <li>▪ Employment, Recruitment, &amp; Hiring</li> <li>▪ Extracurricular Activities</li> <li>▪ Housing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Access to Course Offerings</li> <li>▪ Salaries &amp; Benefits</li> <li>▪ Financial Assistance</li> <li>▪ Facilities</li> <li>▪ Funding</li> <li>▪ Sex, Sexual Orientation, &amp; Gender Identity</li> </ul>	<p><b>Sexual Harassment</b></p> <ul style="list-style-type: none"> <li>▪ Quid Pro Quo</li> <li>▪ Hostile Environment</li> <li>▪ Sexual Assault</li> <li>▪ Domestic Violence</li> <li>▪ Dating Violence</li> <li>▪ Stalking</li> </ul> <p><b>Retaliation</b></p>
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### Role of the Title IX Coordinator

- District/school-wide Title IX Compliance oversight
- Point person for complaints
- Contact for government inquiries
- Creator and implementor of appropriate policy
- Oversight of prompt and equitable grievance procedures
- Coordination and supervision of investigation process
- Coordinating decision-making and appeal processes
- Assurance of compliance with final sanctions



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### Role of the Title IX Coordinator (Cont.)

- Training oversight (TIX Team, students, employees, parents/guardians, etc.)
- Compliance with requirements to stop, prevent, and remedy all sex/gender-based discrimination and harassment
- Prevention and remediation of retaliation
- Coordinate overlap of various student and employee grievance processes
- Navigating First Amendment protections
- Oversight of athletics gender equity
- Recordkeeping



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### (Brief) Overview of Sexual Harassment and Athletics

- Sexual Harassment Grievance Process
- Athletics Gender Equity



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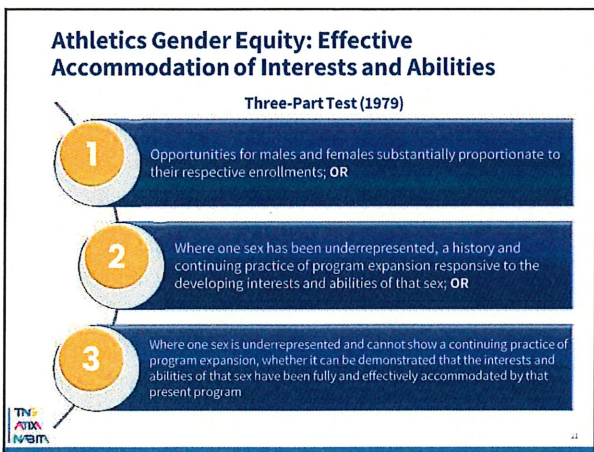
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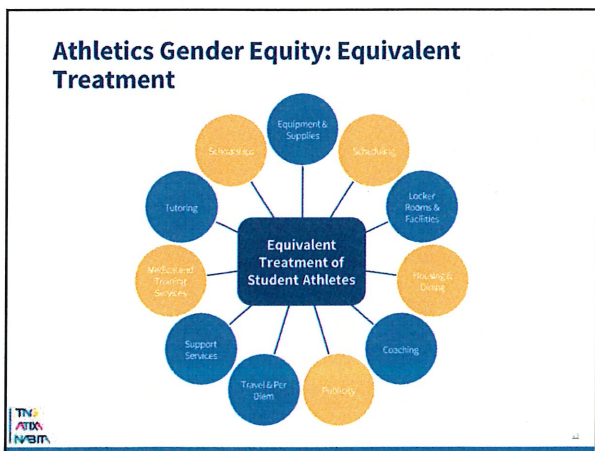
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## Pregnant and Parenting Students

- Regulatory Language
- Pregnancy Defined
- Key OCR Guidance
- Issues for Consideration

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34 C.F.R. 106.40

“A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.”

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### Pregnancy and Title IX: Regulatory Language

**Pregnancy defined:**

- “Pregnancy and related conditions”:
  - A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's **pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom**, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.” (34 C.F.R. 106.40)



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### Pregnancy and Title IX

- Key OCR Guidance
  - 2007 Dear Colleague Letter (DCL)
  - 2013 DCL
  - October 2022 resource document
- Issues for Consideration
  - Admissions
  - Academics
    - Registration
    - Coursework Accommodation and Completion
    - Labs, exposure to chemicals, etc.
  - Doctor's Note to Participate/Physician's Certification
  - Extra-curricular Activities
  - Athletics
  - Leave Policies



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### Protections for LGBTQIA+ Students

- Common Concerns
- Current Challenges



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### Title IX & LGBTQIA+ Students

#### Common Concerns

- Name and Pronouns
- Maintaining Student Privacy
- Restrooms and Locker Rooms
- Overnight Trips
- Athletics

#### Current Challenges

- State-based legislation
- Legal challenges
- Political changes/waffling OCR
- Conflict between Title VII (EEOC) and Title IX (OCR)
- Possible Federal legislation
- Discomfort and the claim of reverse discrimination
- Educating school communities and constituencies
- Religious concerns/schools/clubs/groups



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## Single-Sex Programs and Activities

- Regulatory Language
- Application
- Exceptions

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### 34 CFR 106.34(a)

“Except as provided for in this section or otherwise in this part, a recipient shall not provide or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation therein by any of its students on the basis of sex.”

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## Single-Sex Programs and Activities

<p><b>Applies To:</b></p> <ul style="list-style-type: none"> <li>▪ Curricular activities (e.g., classes, field trips, etc.)</li> <li>▪ Extracurricular activities (e.g., before/after school activities, clubs/organizations, lunch, recess, etc.)</li> <li>▪ Classes and activities provided directly by the school district or through another entity</li> </ul>	<p><b>Exceptions:</b></p> <ul style="list-style-type: none"> <li>▪ Contact sports in physical education classes</li> <li>▪ Human sexuality classes</li> <li>▪ Choruses</li> <li>▪ Nonvocational classes and extracurricular activities when certain criteria are met           <ul style="list-style-type: none"> <li>▪ Note: Vocational classes (primary purpose to prepare students to pursue a technical, skilled, or semi-skilled occupation or trade or to pursue a study in a technical field) are prohibited from being offered on a single-sex basis.</li> </ul> </li> </ul>
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## General Compliance Obligations

- OCR
- Essential Compliance Elements
- After a Case
- Assessing Compliance

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### Role of OCR & Title IX

U.S. Department of Education Office for Civil Rights (OCR)

Compliance	<ul style="list-style-type: none"> <li>▪ Establishing Title IX compliance standards</li> <li>▪ Providing regulatory and sub-regulatory guidance</li> </ul>
Administrative Enforcement	<ul style="list-style-type: none"> <li>▪ Investigating complaints filed by an individual, a representative, or a group</li> <li>▪ Engaging in compliance reviews</li> </ul>
Technical Assistance (The OPEN Center)	<ul style="list-style-type: none"> <li>▪ To help Recipients, students, and parents/guardians understand their rights and responsibilities</li> </ul>



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### Title IX Essential Compliance Elements

- For K-12 schools, once **any school/district employee** has actual notice of sexual harassment/sexual misconduct, the school must:
  - Take immediate and appropriate steps to **investigate** what occurred
    - The obligation to investigate is absolute, even if just an Initial Assessment is completed (see *Davis v. Monroe County Bd. of Educ.*)
  - Take prompt and effective action to:
    - **Stop** the harassment
    - **Prevent** the recurrence
    - **Remedy** the effects



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### Considerations After a Case Closure

- Ensure response was not deliberately indifferent
- Ensure measures taken to restore or preserve equal access to education program or activity
- Ensure remedies provided to the Complainant in addition to the community
- Ensure implementation of any sanctions/disciplinary action
- Monitor for retaliation; respond immediately to allegations
- Ensure all case materials (intake through appeal) are maintained in a central location (ideally within a case management system) that is accessible by the Title IX Coordinator
  - Maintain for at least seven years



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### Assessing Compliance: Internal Reviews/Audits/Assessments



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Questions?



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**Save the Date for Our Next Session**

Topic: Defining Behavioral Intervention and Threat Assessment

Engage with Fellow Attendees

Visit the K12 Institute Lobby and use the Online Discussion Forum to engage with faculty and fellow attendees throughout the next month.

**NOVEMBER 11 1:00 - 2:00pm ET**



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**Community Events**

We invite you to please join us for these free, open-to-the-public events.



**Time with IX:  
Reluctant Complainants**  
Oct. 28 | 3:00-4:30pm ET

Gain insight into what institutional, cultural, and personal barriers might exist that prevent complainants from utilizing resources and learn potential solutions to common challenges.

Register at [www.atixa.org/training](http://www.atixa.org/training).



**Talking BITS:  
State of the Field Overview and Survey**  
Nov. 22 | 2:00-3:00pm ET

The NABITA 2022 Survey results are in! This session will distill the data from the survey and provide teams with trends in practices to assist in shaping their own approach to behavioral intervention work.

Register at [www.nabita.org/training](http://www.nabita.org/training).



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