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2018

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## **Challenges addressing sex discrimination with Title IX coordinators in the #MeToo era**

Elizabeth J. Meyer and Andrea Somoza-Norton

With growing public attention to the issues of sexual assault and discrimination in our culture with the #MeToo and #TimesUp movements, along with recent reports of widespread sexual abuse in some school districts (Jackson, Richards, Marx, & Jr., 2018), it is vital that we are using every tool available to us to combat these issues in schools. Title IX is one law that has been used to address issues of sexual harassment (Davis v. Monroe County Board of Education, 1999; Franklin v. Gwinnett, 1992), sex stereotyping (Theno v. Tonganoxie Unified School Dist. No. 464, 2005), homophobic harassment (Montgomery v. Independent School District No. 709, 2000; Ray v. Antioch Unified School District, 2000), and the exclusion of transgender students from school life (G. G. v. Gloucester County School Board, 2018; Whitaker v. Kenosha Unified School District, 2017). The language of Title IX is simple, but its interpretation and application in the past 45 years have been fraught:

“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.” Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 C.F.R. (1972).

Much of the difficulty is due to the challenges for school districts implementing and enforcing an unfunded mandate that has had varying levels of enforcement and support due to changing priorities from various presidential administrations (Stromquist, 2013). School administrators and board members may feel that assigning a line in the budget to Title IX training and instructional materials may place an additional burden on their already constrained finances. It is not unusual to hear from stakeholders stating that these unfunded mandates are problematic. Although the outcomes of routing funding and resources to this cause may not be immediately tangible to the school community, in the long-term, the end result will safeguard all of our students.

Although all school districts are required to appoint a Title IX coordinator, recent studies have shown that many school districts don't have someone appointed to this role, or these individuals have limited expertise and support to fulfill this role effectively (Equal Rights Advocates, 2015; Meyer, Somoza-Norton, Rubin, Lovgren, & Quantz, 2018). The 2016 report from the U. S. Department of Education, Office for Civil Rights (OCR) outlines the growing need for Title IX coordinators to understand and effectively implement this law. It indicates there were 16,720 civil rights complaints filed in 2016 which led to 8,625 resolutions. Of these, only 1,116 (6%) led to resolutions that "secured changes protective of students' civil rights in schools" (p. 5). These reporting levels are 61% higher than 2015, and that they had "record-high complaint receipts and declining staffing levels." Additionally, the OCR initiated only 13 proactive investigations (also known as compliance reviews). In terms of Title IX, sex discrimination claims made up 46% (7,747) of all complaints received compared to 28% (2,939) in 2015. In two case-studies included in this report, there were no Title IX coordinators in place at the time of the incident. In a recently published study (Meyer et al., 2018), our team interviewed Title IX coordinators in districts in California and Colorado to better understand the challenges they experienced in this role.

## **Challenges for Title IX coordinators and school districts**

During our study, we identified many challenges facing school districts and communities who want to leverage Title IX more effectively to help address issues of sex discrimination in their schools. The main challenges we identified included that Title IX coordinators: 1) are difficult to find, 2) had ambiguous or overly-broad job descriptions and duties, 3) had insufficient training and education, and 4) didn't understand how their role could support transgender students.

One of the first challenges we encountered was finding the Title IX Coordinators. We reached out to 118 school districts in both states and often could not find this information listed on district websites, nor could central office personnel readily answer our inquiry when we called a district for more information. We were told things such as, "we don't get Title IX funding" or "we don't have those issues here" or "we don't have a Title IX coordinator." Secondly, as we asked participants to describe their job duties and how much time they dedicated to Title IX-related duties they reported that, "Title IX coordinator is one of several hats; a very small hat," and generally took less than 1% of their time. Several respondents did not even know it was their role until they had been in the position for several months. One person reported, "I don't think I even knew I was the Title IX coordinator until I had been here, probably, a year. I went, oh, really, that falls under me?" We also asked them to describe the kinds of training and education they had to support this role, and they generally relied on district lawyers, personal networks, or Google to help them when issues arose. One person stated, "If it was a question about a tricky case, I called my friend in my former district and ask her advice. If it's trickier than just advice, I'd call our district's lawyers." We also asked participants about transgender students in their districts and their experience working with them. Several participants did not mention transgender students at all, and others noted that they did not deal with student issues since they worked in Human Resources. Two respondents who talked about transgender students spoke about reacting to issues "as it bubbles up" or "because it's in the news." Two others did speak about bathroom access requests, but did not frame them as Title IX issues. Interviews were conducted after the Obama-era guidance on supporting transgender students in schools had been issued (Lhamon & Gupta, 2016) and prior to the Trump administration's rescinding of this guidance document.

In general, we found that Title IX coordinators are often unaware of their responsibilities, have limited time to dedicate to these duties, and have insufficient training and knowledge to uphold this role's significant responsibilities effectively. As a result, we offer several recommendations to help districts interested in improving their climate around gender equity concerns.

## **Recommendations for policy and practice**

We recognize that school district administrators often have very extensive jobs with significant demands placed on their time. Our goal is not to judge committed professionals, but to provide information and recommendations that may empower districts and community members to provide more support and to help prioritize the important work that falls under Title IX coordinator duties. There need to be some structural changes in order to provide increase supports to people in this role. We offer recommendations for changes to policy and practice at the federal, district, and individual level.

### **1) Office for Civil Rights:**

- a. Should develop a funding mandate to train Title IX coordinators,
- b. increase the kinds of resources available to educate Title IX coordinators (videos, webinars, regional conferences, etc.),
- c. develop local and regional networks to support the learning and practice of these unique administrative roles,
- d. systematically and regularly audit randomly selected districts in all 50 states each year to verify the presence of a publicly named Title IX coordinator,
- e. create a public, searchable database of Title IX coordinators, and
- f. develop and provide free, mandatory webinars for newly appointed Title IX Coordinators,
- g. work in tandem with other Title and federal programs (i.e.; Title I, II, III, etc.) to deliver a more cohesive message across services on this topic. This work does not necessarily entail supplanting funding but informing instructors that serve various student populations including LGBTQ+ youth.

### **2) School District Leaders:**

- a. Superintendents should allocate time and resources to ensure that Title IX coordinators can design and lead prevention and education activities to address issues of sex-based discrimination in schools.
- b. Human resources officers should review and revise the Title IX coordinator job descriptions periodically to ensure compliance with the law. Furthermore, job descriptions must be designed in a way that allows coordinators to complete all of the core responsibilities, give and receive training for themselves and staff and faculty, disseminate the policy, and attend to monitoring compliance and grievance procedures, just to name a few.
- c. School districts should list “Title IX Coordinator” alongside other official job titles for the appointed personnel so that when a family or staff member does a search of the district website, that person’s information could be quickly and easily located. Additionally, this person’s name, title, and contact information should be on all documentation and websites that address issues of harassment and discrimination at the school district. One easy way to streamline this process is to create an email address and phone number that is linked to the role and not a person such as: Titleix@ schooldistrict.org so when there is turnover it is not necessary to update contact information in these various locations.

### **3) School Boards:**

- a. Members have the responsibility and the authority to set policy and stimulate reform. If policies are not properly written, implemented and monitored, progress on student success and well-being will be impacted at all levels. In 2014, the California School Board Association via their Policy Brief strongly encouraged their members to bring up to date their policies in order to better to protect the safety of transgender and gender non-conforming students. Periodically, the association publishes sample administrative regulations that can be used at the local level. One of these samples is the revised BP 5145.3 which includes non-discrimination best practices, i.e., privacy for transgender

students, dress, preferred names and pronouns, and physical education and interscholastic athletic activities (CSBA, 2014).

b. Affirm their opposition to any form of discrimination or harassment. By publicizing its efforts and providing clear steps for how issues will be resolved, the district and county office of education can encourage students to feel safe in reporting issues of harassment. Prohibition of harassment based on gender identity or gender nonconformity will be one part of a broader effort to create a safe school environment so that all students have an equal opportunity to attend school, be engaged in the classroom and ultimately to achieve academic success.

c. Boards must be diligent and clearly communicate these legal requirements and potential actions to the school community. Research has shown that school boards spend a small portion of their meeting time on policy development and communication (Land, 2002). Unfortunately, the repercussions of diminishing this practice can have severe consequences for students. It is imperative that school boards adopt and regularly bring up-to-date their non-discriminatory policies.

d. Recommend and collaborate with regional colleges and universities and county offices of education offering preliminary administrative services credential programs to provide Title IX education focusing on gender equity and sex-based discrimination.

e. Work in partnership with community agencies such as LGBTQ community groups and safer schools coalitions to advocate for LGBTQ+ youth and strengthen community awareness and support programs.

#### **4) Title IX Coordinators**

a. We recommend that Title IX coordinators request support and clarification from immediate supervisors when there is no clear priority or time allocated for Title IX-related duties and responsibilities.

b. When appointing a new Title IX coordinator, districts should ensure that person is aware of what it means to be a Title IX coordinator by providing the Dear Colleague Letter (Lhamon, 2015) and other OCR guidance as a starting point. Additionally, annual professional development should be funded and prioritized by the district. Title IX Coordinators should take the initiative to pursue professional development opportunities through organizations that focus on Title IX and gender equity issues such as: Office for Civil Rights, Association of Title IX Administrators (ATIXA), and the Education Law Association.

c. Title IX coordinators should play an essential role in providing support and resources for transgender students. This is an area where they should seek additional education and be ready to support schools and districts as they get a growing number of requests to accommodate and support transgender students.

d. One of the core responsibilities of Title IX coordinators consists of providing program development, including in-service training for faculty and staff to eliminate sex discrimination in the school district (Title IX, 1972). None of our participants described making efforts to use their role to educate district personnel or students about Title IX, district harassment and non-discrimination policies and procedures, or engaging in general school climate or other proactive efforts. Education and prevention should be seen as central and systematic parts of a Title IX coordinator's duties. They should also find ways to work with district leadership to identify approaches to be proactive in

educating district staff and students about harassment and gender equity issues, including regular reviews and updates of policies and practices.

The consequences for neglecting Title IX compliance can be not only costly for the district but dire for students who are experiencing discrimination. We learned some troubling facts during the course of this study that indicate many school districts are exposing themselves to legal liability and the potential to lose federal funding, as well as falling far short of their legal and ethical responsibilities to provide students and staff an environment free from discrimination. We continue to fail our students when gender equity, full access, and safety remain low priorities in districts. We hope that this study and its recommendations will provide support and guidance for Title IX coordinators to keep improving our efforts to make every school a place where every student and family feels safe, affirmed, and welcomed.

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