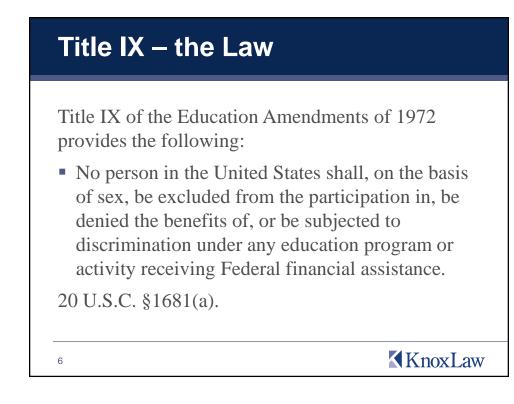
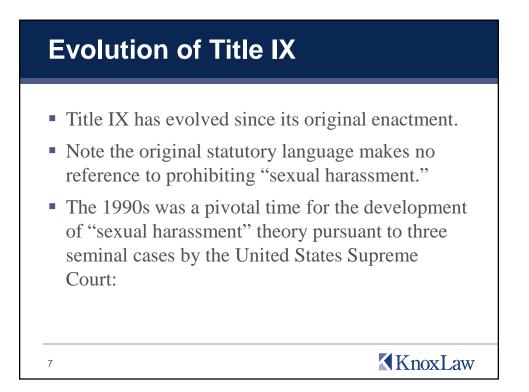


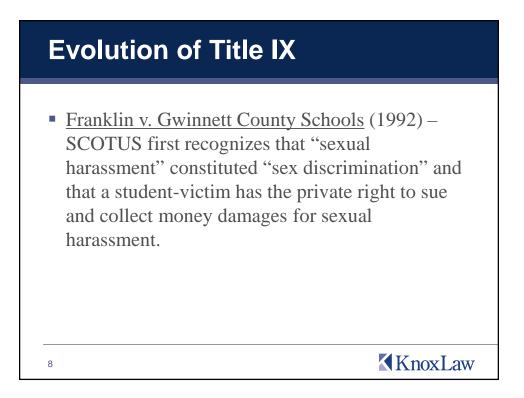


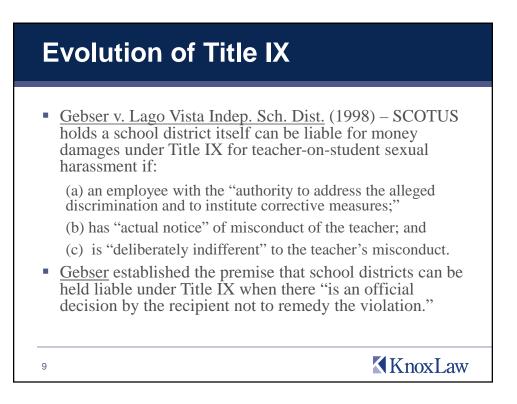
Training Overview		
<ul> <li>PART I / DAY 1</li> <li>Title IX Overview <ul> <li>Historical Context</li> <li>New Regulations</li> <li>Training Requirements</li> </ul> </li> <li>Title IX Sexual Harassment</li> <li>Title IX Compliance <ul> <li>Underlying Intent of Regulations</li> <li>Roles of Title IX Appointees</li> </ul> </li> <li>Reporting and Responding to Sexual Harassment <ul> <li>Jurisdictional Issues</li> <li>Initial Response to Report</li> </ul> </li> </ul>	<ul> <li>PART II / DAY 2</li> <li>District Initial Response to Report</li> <li>Formal Complaint</li> <li>Informal Resolution Process</li> <li>Grievance Process</li> <li>Investigation</li> <li>Investigative Report</li> <li>Impartiality / Conflicts of Interest</li> <li>Evidence / Relevance</li> </ul>	<ul> <li>PART III / DAY 3</li> <li>Confidentiality</li> <li>Emergency Removals</li> <li>Recordkeeping</li> <li>Hypotheticals</li> </ul>
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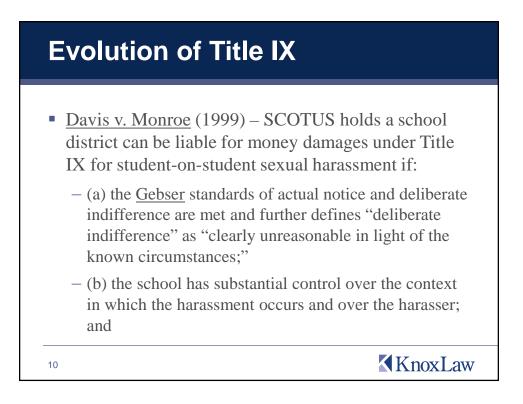


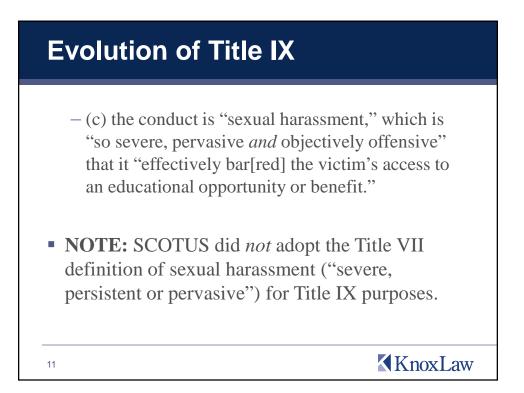


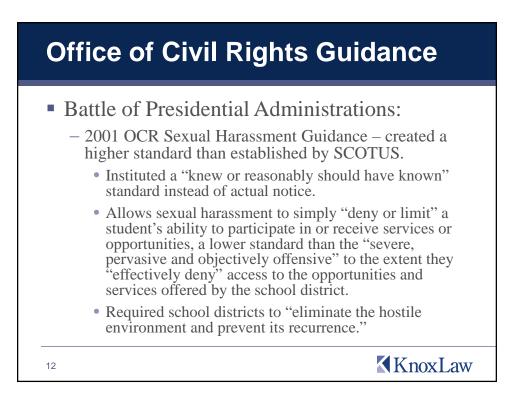


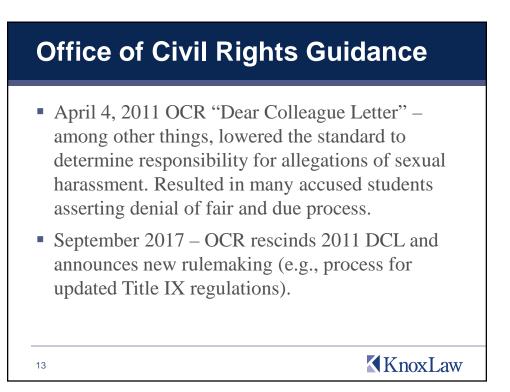






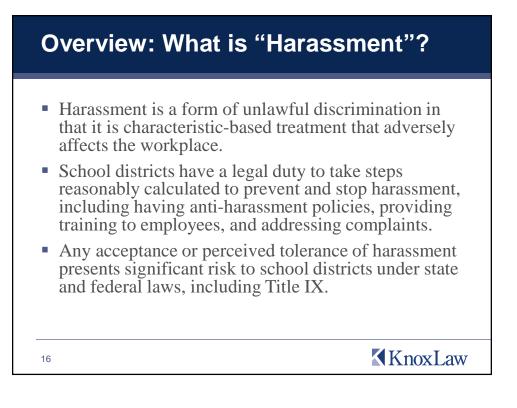


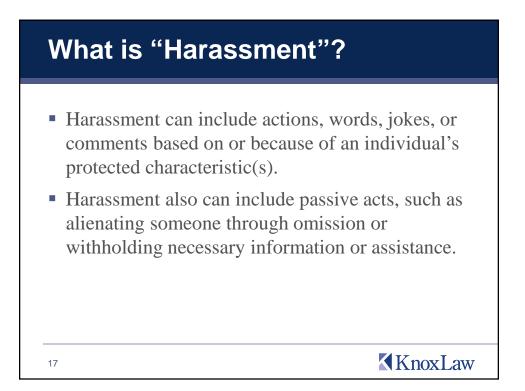


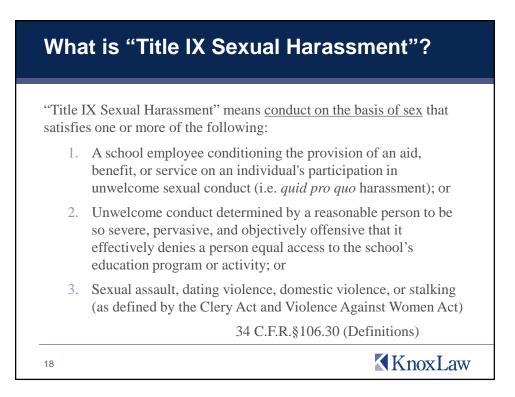


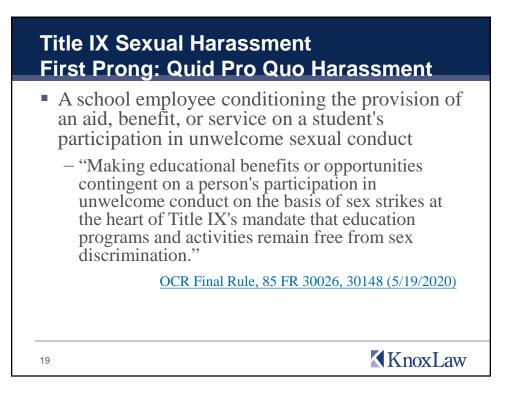


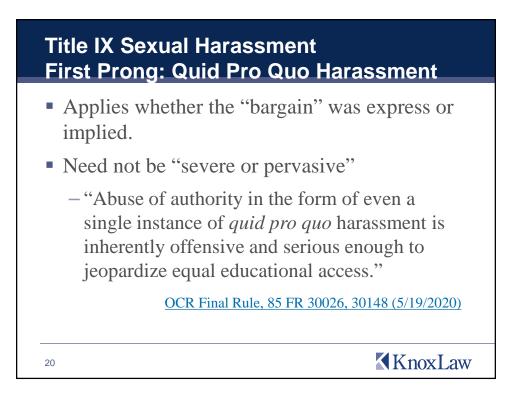


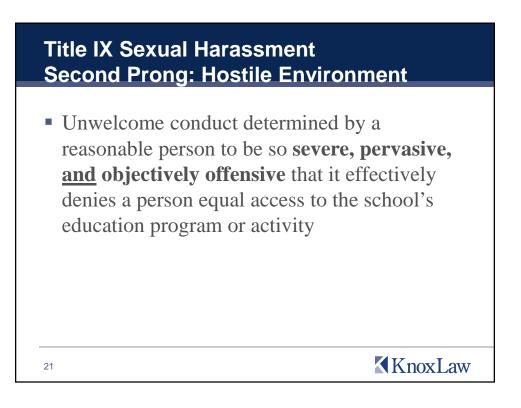


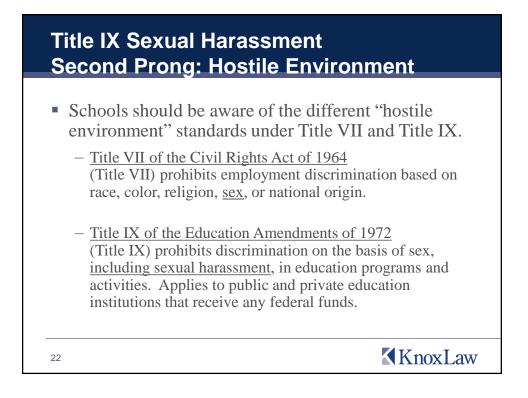


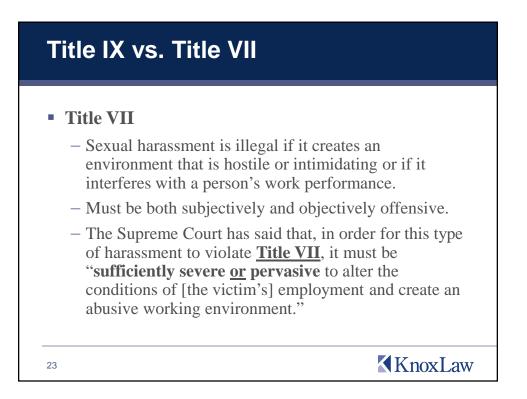


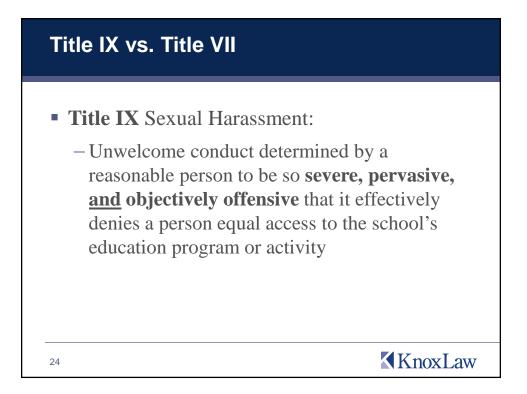


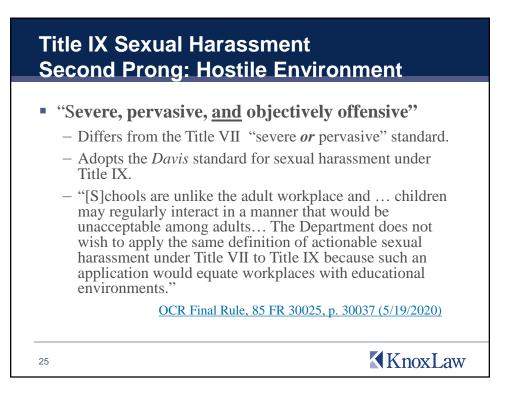


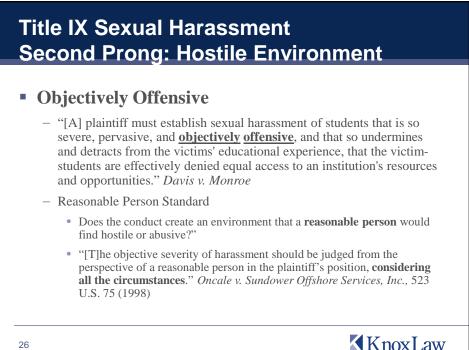


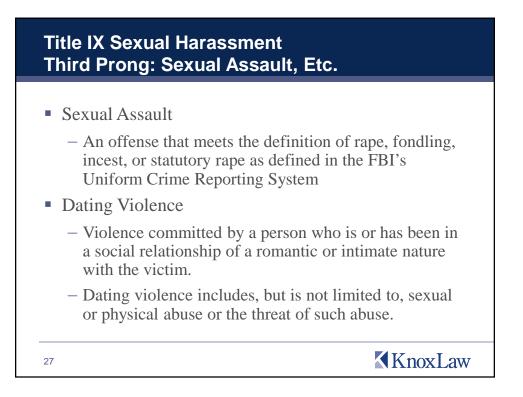


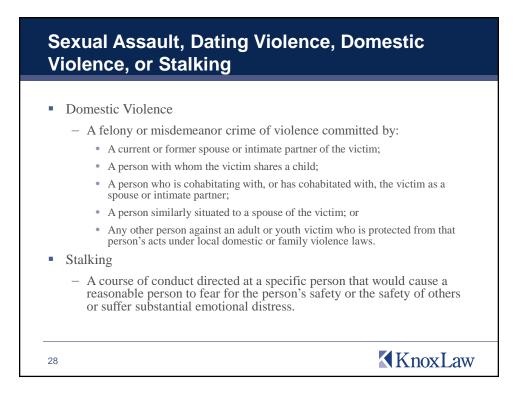












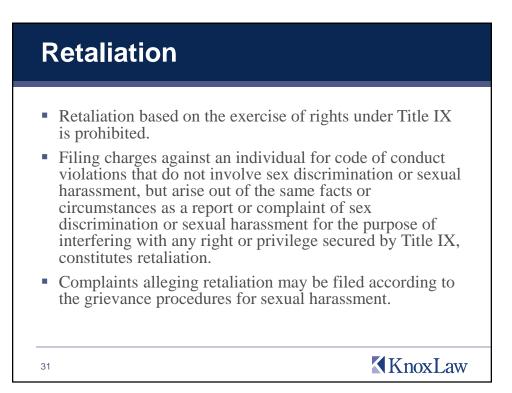


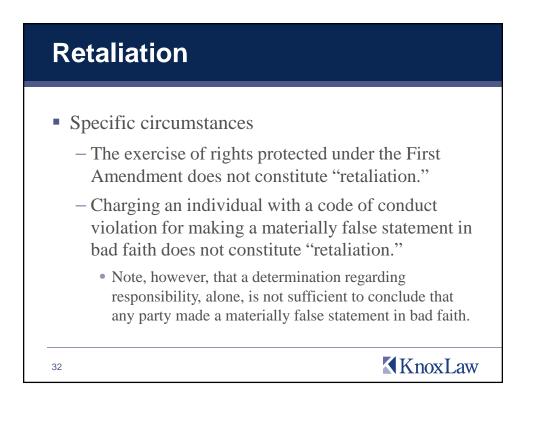
# No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX ... or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate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

34 C.F.R. §106.71(a)

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## **Compliance with Title IX Mandates**

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# Underlying Intent of New Regulations: a Balance of Interests

- The new regulations attempt to ensure a fair process for both the complainant (alleged victim) and respondent (alleged perpetrator).
  - Complainants are assured every report of sexual misconduct will be taken seriously, that they have the ability to trigger the use of a fair and unbiased grievance process through the filing of a "formal complaint," and that they will have prompt access to supportive measures regardless of whether they pursue the formal process.
  - Respondents are also entitled to supportive measures and are assured they will not be subjected to discipline for any alleged Title IX violation unless they are found responsible after the implementation of a fair and unbiased grievance process.

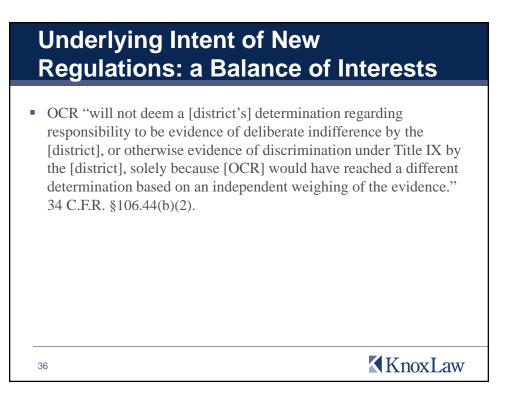
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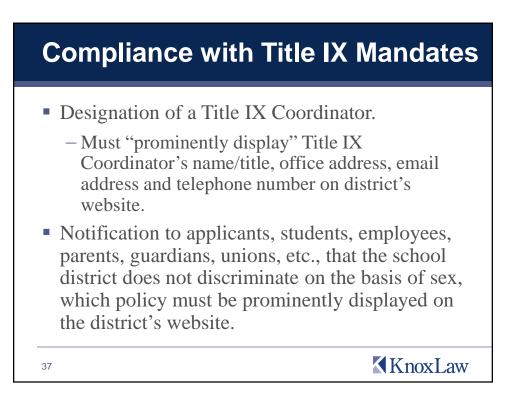


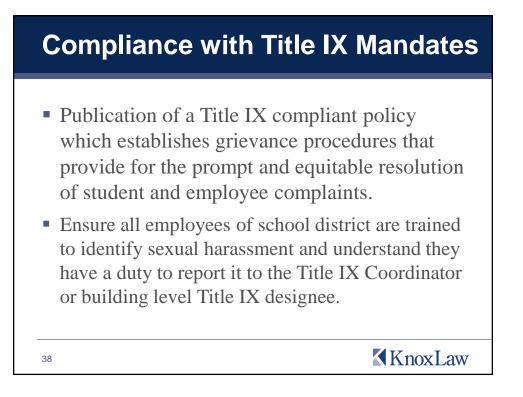
- School districts are held accountable for failure to respond equitably and promptly to sexual misconduct reports.
  - School districts are only liable under Title IX if the school district is "deliberately indifferent" (e.g., responds in a "clearly unreasonable" manner) to "actual knowledge" of sexual harassment. §106.44(a).
  - Remember <u>Gebser's</u> premise: that school districts can be held liable under Title IX when there "is an official decision by the recipient *not* to remedy the violation."
  - It would be highly unlikely for a school district's response to be deemed "clearly unreasonable" if it provides supportive measures to the complainant and respondent, properly trains its employees, and implements and follows a Title IX compliant grievance process.

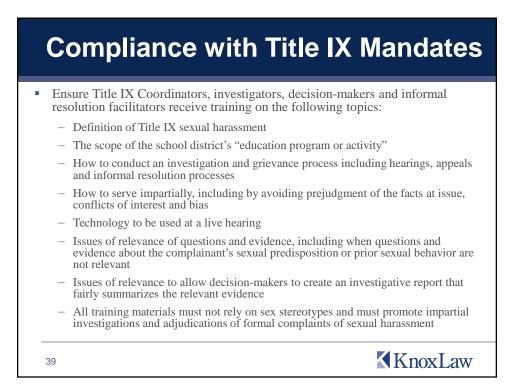
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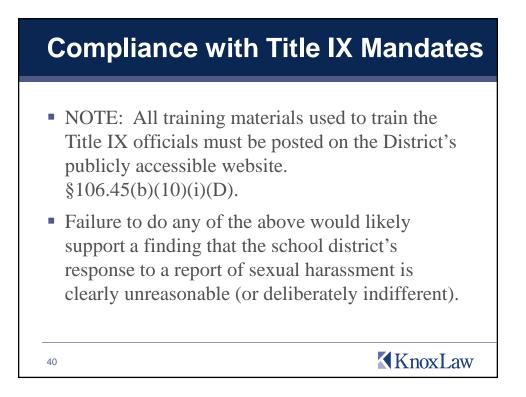
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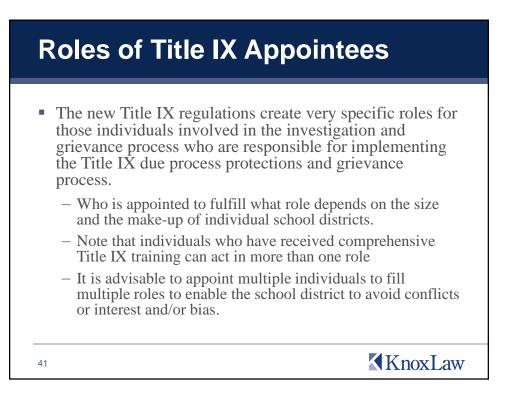


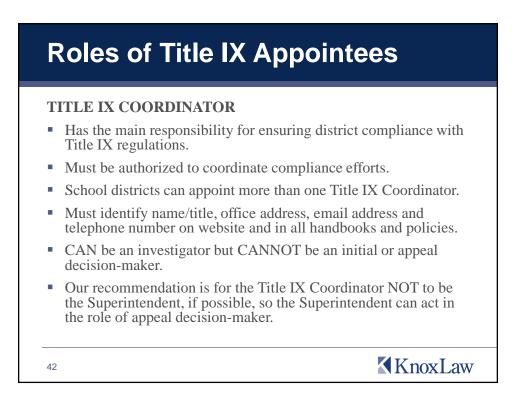


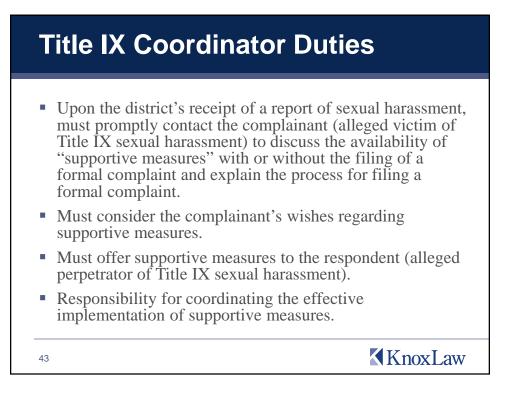


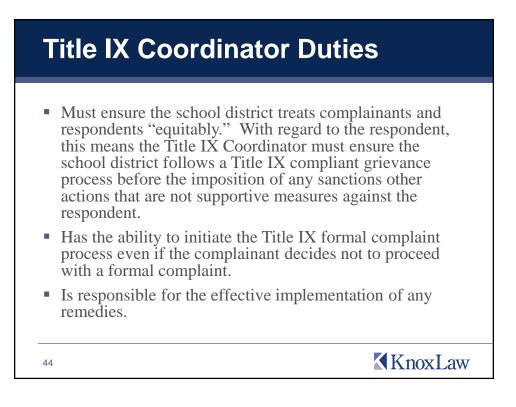


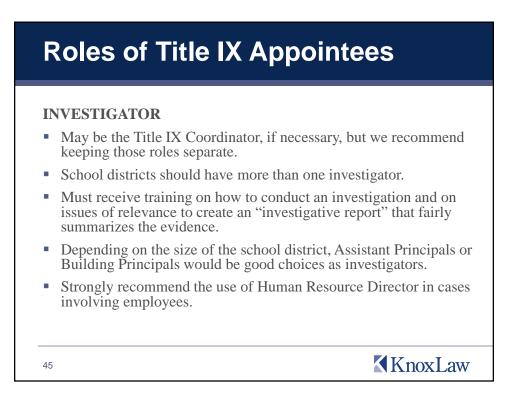






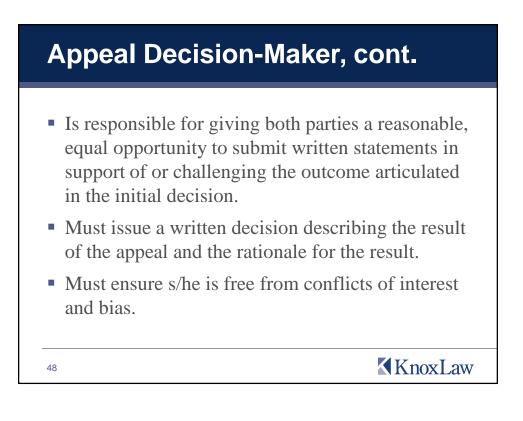






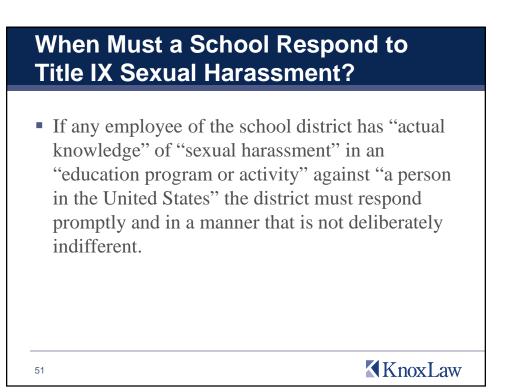
Roles of Title IX Appointees		
INITIAL DECISION-MAKER		
<ul> <li>May NOT be the Title IX Coordinator nor the investigator. Possibly the Building Principal or central Administrative employee.</li> </ul>		
<ul> <li>Is responsible for reviewing the "investigative report."</li> </ul>		
<ul> <li>Is responsible for sending the investigative report to the complainant and respondent and allow for the exchange of relevant questions.</li> </ul>		
<ul> <li>Must draft a "written determination regarding responsibility."</li> </ul>		
• Must ensure s/he is free from conflicts of interest and bias.		
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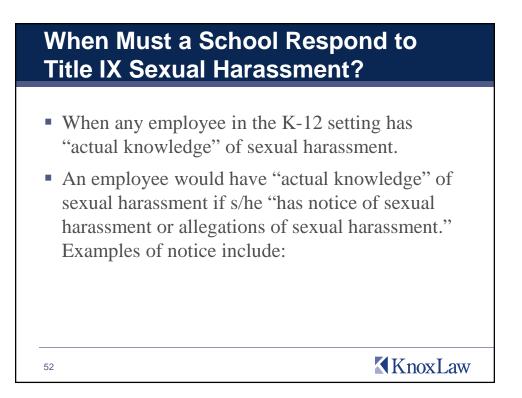














- If the employee observed or witnessed sexual harassment
- If the employee is told that sexual harassment has occurred by the complainant, the complainant's parents or another 3<sup>rd</sup> party
- If the employee receives a voice mail or an email or any other written or verbal complaint alleging sexual harassment has occurred
- NOTE: the school district does not have "actual knowledge" if the only official of the school district with actual knowledge is the respondent (the alleged perpetrator).
- NOTE: Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. 34 C.F.R. §106.30(a). In other words, the broader old OCR standard of "knew or should have known" is no longer applicable.

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<section-header>When Must a School Respond to<br/>Ditable X Sexual Harassment?When the reported incident occurred "against a<br/>person in the United States." §106.44(a)• This is a "jurisdictional" issue.• If the incident occurs on a school field trip to<br/>Canada, Title IX is not implicated.• But, remember, school district must analyze<br/>whether other laws and/or other provisions of<br/>your Student Code of Conduct would apply.

# When Must a School Respond to Title IX Sexual Harassment?

When the harassment occurred in an "education program or activity" of the school district. §106.44(a), §106.30, §106.45

Title IX Coordinator must analyze whether the reported incident occurred in the context of an education program or activity which includes "locations, events or circumstances over which the school district exercised substantial control over both the respondent and the context in which the sexual harassment occurred."

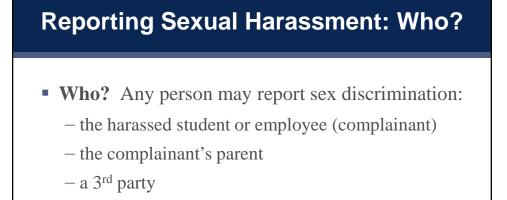
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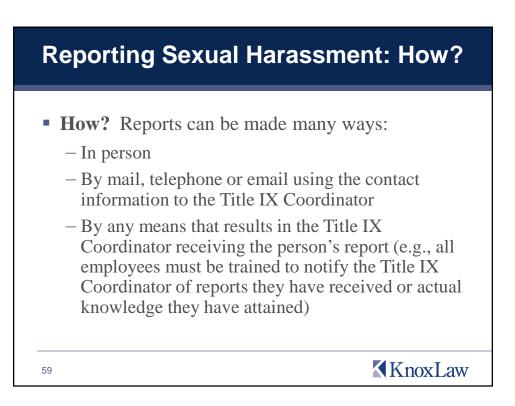
When Must a School Respond to **Title IX Sexual Harassment?** • On property or locations either owned or leased or rented by the school district. During school-sponsored events, such as athletic events or field trips, even if they occur off school property (but inside the United States). Computer/internet networks or computer hardware/software owned or operated or used by the school district in the course of its educational services or programs. • Area of ambiguity: off campus behavior/impact of privately-owned technology. Again, remember, even if Title IX does not apply, analyze the application of other laws and school district policies to the behavior at issue. KnoxLaw 56

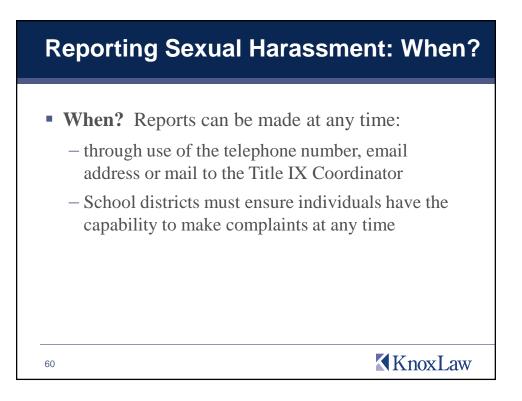
### Reporting Sexual Harassment: Who, How and When?

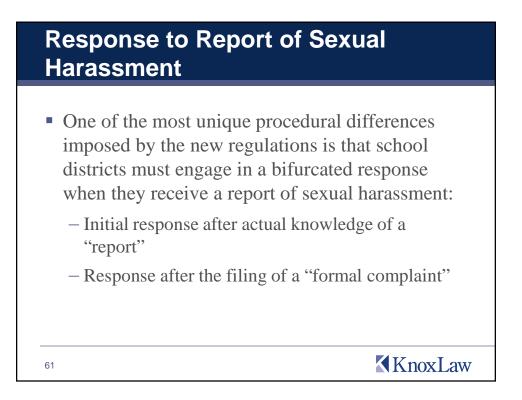
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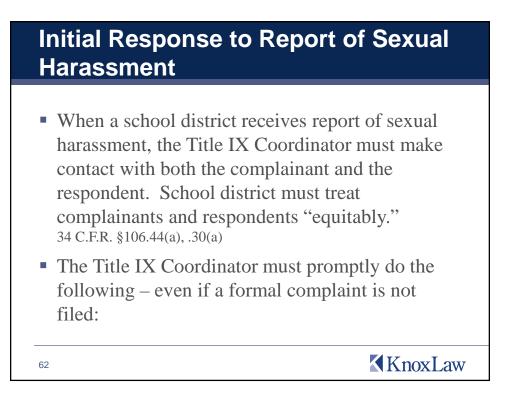


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- Offer "supportive measures."
- Explain supportive measures are available even without the filing of a formal complaint.
- Consider the complainant's wishes with respect to supportive measures.
- Explain the process for filing a formal complaint.

#### For the respondent:

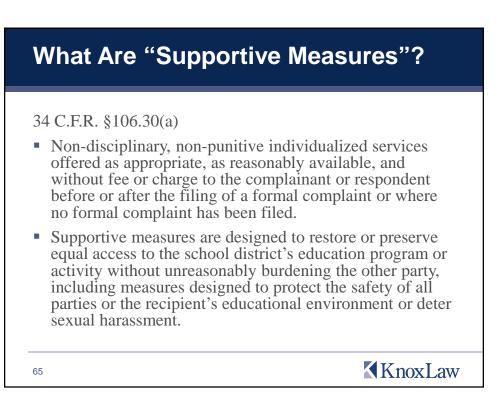
- Offer supportive measures.
- Follow the Title IX grievance process before disciplining or sanctioning respondent (subject to "emergency removal" provisions discussed below)

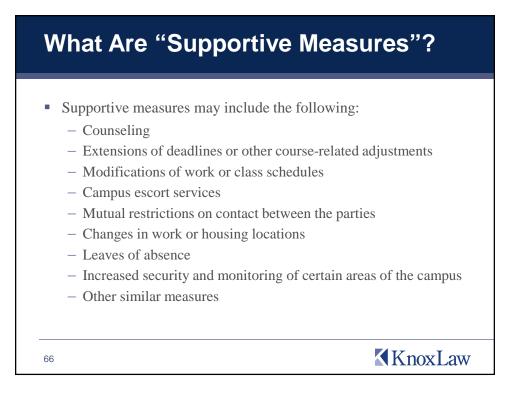
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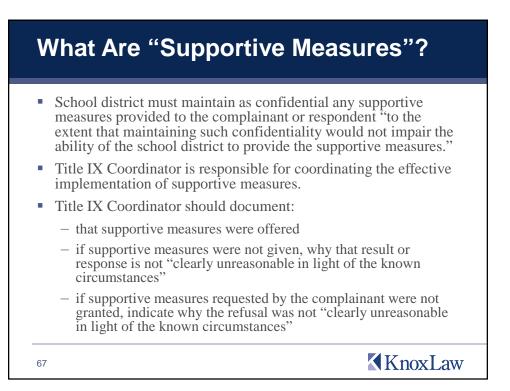


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#### Disclaimer

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