

**TITLE IX SEXUAL HARASSMENT -
PROHIBITED CONDUCT AND REPORTING PROCESS**

Policy Code: 1725/4035/7236

1 The board acknowledges the dignity and worth of all students and employees and strives to
2 create a safe, orderly, caring, and inviting school environment to facilitate student learning and
3 achievement. As provided in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of
4 Sex, the board will not tolerate sexual harassment in the education program and activities of the
5 school system. The board takes seriously all reports and formal complaints of sexual
6 harassment.

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8 This Title IX sexual harassment policy specifically prohibits sexual harassment as that term is
9 defined under Title IX. It provides a process for students, employees, and others to report such
10 sexual harassment for response by school officials. All incidents of conduct that could constitute
11 sexual harassment under this policy are to be reported and treated in accordance with this policy,
12 whether or not the incidents may also constitute violations of other board policies or standards of
13 conduct.

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15 Individuals who believe they have been subjected to sexual harassment prohibited by this policy
16 or who have witnessed or have reliable information that another person has been subjected to
17 sexual harassment prohibited by this policy should use the process provided in Section C of this
18 policy to report such violations.

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20 The board also provides a grievance process for those who believe they have been victims of
21 sexual harassment that is designed to achieve prompt and equitable resolution of formal
22 complaints of sexual harassment through a formal investigation and adjudication of the
23 allegations in the complaint or through informal resolution processes. The grievance process is
24 provided in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process. Affected
25 individuals are encouraged to report sexual harassment in accordance with the process provided
26 in Section C of this policy before filing a formal complaint to initiate the grievance process.

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28 **A. PROHIBITED BEHAVIOR**

29
30 Students, school system employees, volunteers, and visitors are expected to behave in a
31 civil and respectful manner. The board expressly prohibits sexual harassment by
32 students, employees, board members, volunteers, or visitors. “Visitors” includes parents
33 and other family members and individuals from the community, as well as vendors,
34 contractors, and other persons doing business with or performing services for the school
35 system.

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37 Sexual harassment prohibited under Title IX and by this policy is conduct *on the basis of*
38 *sex* occurring in a school system education program or activity that satisfies one or more
39 of the following:

- 40
41 1. an employee of the school system conditioning the provision of an aid, benefit, or
42 service of the school system on an individual’s participation in unwelcome sexual
43 conduct;

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2. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school system’s education program or activities. This determination requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and the victim and the number of individuals involved and their authority;
 3. sexual assault including rape, statutory rape, fondling, and incest;
 4. dating violence;
 5. domestic violence; or
 6. stalking.

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Sexual assault, dating violence, domestic violence, and stalking will be defined in accordance with applicable law and the definitions will be incorporated into an administrative regulation developed by the superintendent.

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Conduct that satisfies this standard is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser and the context in which the harassment occurred.

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All references to “sexual harassment” in this policy mean sexual harassment that meets this definition.

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Examples of conduct on the basis of sex that would be considered sexual harassment if the conduct satisfies the criteria above include, but are not limited to: unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature, such as deliberate, unwelcome touching that has sexual connotations or is of a sexual nature; suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats; pressure for sexual activity; continued or repeated offensive sexual flirtations, advances, or propositions; continued or repeated verbal remarks about an individual’s body; sexually degrading words used toward an individual or to describe an individual; sexual assault; sexual violence; the display of sexually suggestive drawings, objects, pictures, or written materials; posting sexually suggestive pictures of a person without the person’s consent; and forwarding pornographic material depicting a classmate or other member of the school community. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature may also constitute sexual harassment.

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Conduct that is determined not to meet the definition above may violate other board policies or established standards of conduct and will be treated accordingly. For example, conduct that does not meet the definition of Title IX sexual harassment above may nevertheless violate other board policies, including:

- policy 4329/7311, Bullying and Harassing Behavior Prohibited, prohibiting all forms of bullying and harassing conduct, including when it consists of unwelcome conduct of a sexual nature;
- policy 7232, Discrimination and Harassment in the Workplace, prohibiting harassment in the workplace; or
- policy 4040/7310, Staff-Student Relations, prohibiting romantic or sexual relationships between employees and students.

Nothing in this policy is intended to limit discipline for violation of other board policies when appropriate and consistent with law.

B. DEFINITIONS

The following additional definitions apply in this policy.

1. Report

A report is an oral or written notification that an individual is an alleged or suspected perpetrator or victim of sexual harassment.

Making a report initiates the interactive process with the complainant described in Section D.1, below. No disciplinary action will be taken against a respondent for sexual harassment based on a report alone.

2. Formal Complaint

A formal complaint is a document signed and filed with the Title IX coordinator by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that school officials investigate the allegation(s). Filing a formal complaint initiates the grievance process set forth in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activities of the school system.

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131 3. Complainant
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133 The complainant is the individual(s) who is alleged to be the victim of conduct
134 that could constitute sexual harassment.
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- 136 4. Respondent
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138 The respondent is the individual(s) who has been reported to be the perpetrator of
139 conduct that could constitute sexual harassment.
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- 141 5. Grievance Process
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143 Grievance process means the process for investigating and reaching a final
144 determination of responsibility for a formal complaint of sexual harassment. The
145 sexual harassment grievance process is set out in policy 1726/4036/7237.
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- 147 6. Title IX Coordinator
148
149 The Title IX coordinator is a school official who is designated to coordinate the
150 school system's response to sexual harassment and allegations of sexual
151 harassment. Contact information for the Title IX coordinator is posted on the
152 school system's website and listed in policy 1720/4030/7235, Title IX
153 Nondiscrimination on the Basis of Sex.
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- 155 7. Supportive Measures
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157 Supportive measures are non-disciplinary, non-punitive individualized services
158 offered as appropriate, as reasonably available, and without fee or charge to the
159 complainant or the respondent before or after the filing of a formal complaint or
160 where no formal complaint has been filed. Such measures are designed to restore
161 or preserve equal access to the school system's education program and activities
162 without unreasonably burdening the other party, including measures designed to
163 protect the safety of all parties or the school system's educational environment, or
164 deter sexual harassment.
165
166 Supportive measures available to the parties include, but are not limited to,
167 counseling, mental health services referral, extensions of deadlines or other
168 course-related adjustments, modifications of work or class schedules, escort
169 services, mutual restrictions on contact between the parties, changes in work
170 locations, leaves of absence, increased security and monitoring, and other similar
171 measures determined by school officials to be necessary to protect the safety or
172 educational or employment activities of a party.

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8. Days

Days are calendar days unless specified otherwise.

9. Student(s)

“Student(s)” means the student and/or the student’s parent or legal guardian unless the context clearly indicates otherwise. When the complainant or respondent is a student, references to those terms also include the student’s parent or legal guardian unless the context clearly indicates otherwise.

10. Actual Knowledge

“Actual knowledge” means a school employee has notice of sexual harassment or allegations of sexual harassment.

C. REPORTING SEXUAL HARASSMENT

1. Student Reports

Any student who believes he or she is a victim of sexual harassment occurring in the school system’s education programs or activities is encouraged to report the matter to the student’s principal or to the Title IX coordinator. Reports may also be made to a teacher, counselor, assistant principal, teacher assistant, or any other school employee. Middle and high school students may also report sexual harassment through the anonymous tip line, but school officials may be limited in their ability to respond if the report does not identify the complainant.

2. Mandatory Reporting by School Employees and Board Members

Any employee or member of the board of education who has actual knowledge of sexual harassment or allegations of sexual harassment occurring in the education program or any activity of the school system must report that information immediately to the Title IX coordinator.

Any of the following confers “actual knowledge” and must be reported immediately:

- a. a report of sexual harassment from a student or other person;
- b. the employee or board member witnesses conduct that is or reasonably could be sexual harassment; or

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217 c. the employee or board member discovers evidence of sexual harassment,
218 such as sexualized graffiti on school property, or otherwise has reliable
219 information or reason to believe that a student, employee, or other
220 individual may have been sexually harassed in violation of this policy,
221 even if no one has reported the sexual harassment.
222

223 Employees who observe an incident of harassment are expected to intervene to
224 stop the conduct in situations in which they have supervisory control over the
225 perpetrator, and it is safe to do so. An employee with actual knowledge of
226 possible sexual harassment in violation of this policy who does not promptly
227 report the conduct and/or take proper action as required by this subsection, or who
228 knowingly provides false information about the incident, will be subject to
229 disciplinary action, up to and including dismissal.
230

231 Any doubt about whether particular conduct is possible sexual harassment must
232 be resolved in favor of reporting the conduct.
233

234 The mandatory reporting required by this section is in addition to required
235 reporting under policies 4040/7310, Student-Staff Relations, and 4240/7312,
236 Child Abuse and Related Threats to Child Safety, where the conduct at issue
237 requires a report under either of those policies.
238

239 3. Reporting by Others
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241 All other members of the school community are strongly encouraged to report any
242 act that may constitute an incident of sexual harassment in violation of this policy
243 to the school principal, the Title IX coordinator, or the superintendent.
244

245 4. Content of the Report
246

247 To the extent possible, reports should be sufficient to put school officials on
248 notice of conduct that could constitute sexual harassment. Employees making
249 mandatory reports should provide as much detail about the alleged sexual
250 harassment as is known, unless such disclosure would violate law or standards of
251 professional ethics. Reports, other than mandatory reports by employees, may be
252 made anonymously, but anonymous reports may limit the school system's ability
253 to respond fully if the alleged victim is not identified.
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255 5. Time Period for Making a Report
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257 Reports by students and third parties can be made at any time. During non-
258 business hours, reports can be made by using the contact information for the Title

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259 IX coordinator provided on the school system’s website and in policy
260 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex. A report should
261 be made as soon as possible after disclosure or discovery of the facts giving rise
262 to the report. Delays in reporting may impair the ability of school officials to
263 investigate and respond to any subsequent formal complaint.
264

265 School employees and board members with actual knowledge of sexual
266 harassment must report that information immediately, as provided in subsection
267 C.2 above.
268

269 **D. SCHOOL OFFICIALS’ RESPONSE TO ACTUAL KNOWLEDGE OF SEXUAL HARASSMENT**
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271 As required to meet the school system’s obligations under Title IX, school officials shall
272 respond promptly and impartially to actual knowledge of alleged sexual harassment in a
273 manner that is not deliberately indifferent. A response that is not deliberately indifferent
274 is one that is not clearly unreasonable in light of the known circumstances and includes,
275 at a minimum, the provision of supportive measures to the complainant, as described in
276 this section.
277

278 Consistent with this duty, school officials shall respond to all reports of conduct that
279 could constitute sexual harassment in accordance with this section. However, a report
280 alleging conduct that is not sexual harassment as defined in this policy is not subject to
281 this policy but may be referred to appropriate school officials as a possible violation of
282 other board policies.
283

284 1. Title IX Coordinator Initiates Interactive Process with Complainant
285

286 Upon receiving a report of alleged sexual harassment, the Title IX coordinator
287 shall promptly contact the complainant and the complainant’s parent or guardian
288 confidentially. This contact must occur within three days, excluding weekends,
289 absent extenuating circumstances. The Title IX coordinator shall also notify the
290 principal of the report and, if an employee is the complainant or respondent, the
291 senior human resources official or designee.
292

293 When contacting the complainant and parent or guardian, the Title IX coordinator
294 shall do all of the following during the contact and shall document the same:
295

- 296 a. offer supportive measures;
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- 298 b. consider the complainant’s wishes with respect to supportive measures;
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- 300 c. explain that supportive measures are available with or without the filing of
301 a formal complaint; and

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- d. explain the process for filing a formal complaint with the Title IX coordinator and the response required of the school system when a complaint is filed, including all the following:
 - i. that a formal complaint will initiate the grievance process described in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process;
 - ii. that a formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail;
 - iii. the major steps in the grievance process, including (1) a notice of the allegations that will be provided to the respondent that includes identification of the complainant and the allegations made; (2) an investigation of the allegations of sexual harassment in which both parties will have opportunity to have an advisor, present witnesses, review evidence, pose written questions of the other party, and receive a copy of the investigative report; (3) a decision on responsibility in which a decision-maker objectively evaluates all relevant evidence and determines whether the respondent engaged in the alleged sexual harassment in violation of this policy; and (4) the opportunity for either party to appeal the decision;
 - iv. the approximate time frame for concluding the grievance process;
 - v. that school officials will treat both parties equitably by (1) providing remedies to the complainant if the respondent is found responsible, and (2) by not imposing disciplinary sanctions on the respondent without first following the grievance process set forth in policy 1726/4036/7237;
 - vi. the circumstances under which a formal complaint might be consolidated with other formal complaints or dismissed; and
 - vii. that the Title IX coordinator may have an obligation to initiate the grievance process in the absence of a formal complaint filed by the complainant and the time frame in which that decision will be made.
 - 2. Title IX Coordinator Arranges Implementation of Supportive Measures
After considering the complainant's wishes, the Title IX coordinator shall arrange

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345 the effective implementation of appropriate supportive measures unless, in the
346 exercise of good judgment, the Title IX coordinator determines that supportive
347 measures should not be provided. If supportive measures are not provided to the
348 complainant, the Title IX coordinator shall document why supportive measures
349 were not provided and why not providing supportive measures is not deliberately
350 indifferent to known sexual harassment.

351
352 If the complainant is a student with a disability, the Title IX coordinator may need
353 to consult with appropriate school personnel to determine whether adjustments to
354 the student's IEP or Section 504 plan are needed to implement any supportive
355 measures to be provided and/or whether the student's plan necessitates any
356 adjustment to the proposed supportive measures.

357
358 3. Title IX Coordinator Determines Whether to Sign a Formal Complaint

359
360 If the complainant declined to file a formal complaint within the designated time
361 period following the interactive process described above, the Title IX coordinator
362 shall determine on a case-by-case basis whether to sign, i.e., file, a formal
363 complaint to initiate the grievance process.

364
365 The Title IX coordinator should file a formal complaint (1) if the respondent is a
366 school employee and the complainant is a student; and (2) in other cases where, in
367 the exercise of good judgment and in consultation with the school attorney as
368 appropriate, the coordinator determines that a grievance process is necessary to
369 comply with the obligation not to be deliberately indifferent to known allegations
370 of sexual harassment. Credibility or merit of the complaint shall not be
371 considered in making the determination.

372
373 A decision by the Title IX coordinator to sign a formal complaint is not to be
374 construed as supportive of the complainant or in opposition to the respondent or
375 as an indication of whether the allegations are credible or have merit, or whether
376 there is evidence sufficient to determine responsibility. Signing a formal
377 complaint does not make the Title IX coordinator a complainant or party to the
378 complaint nor relieve the Title IX coordinator from any responsibilities under this
379 policy.

380
381 The Title IX coordinator shall document the decision of whether to sign a
382 complaint and the reasons for that decision.

383
384 4. Presumption of Non-responsibility of Respondent and Bar on Disciplinary
385 Sanctions without Due Process

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387 The respondent identified in any report alleging sexual harassment under this

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388 policy will be presumed not responsible for the alleged conduct until the
389 respondent's responsibility is conclusively established through the grievance
390 process outlined in policy 1726/4036/7237, Title IX Sexual Harassment
391 Grievance Process.

392
393 No disciplinary sanction or other action that is not a supportive measure,
394 including but not limited to (1) short or long-term suspension, expulsion, or
395 transfer to an alternative school or program for student-respondents and (2)
396 suspension, demotion, or dismissal for employee-respondents, may be imposed
397 for a violation of this policy unless the respondent agrees to a specific disciplinary
398 sanction or action in an informal resolution or has been determined to be
399 responsible for the sexual harassment at the conclusion of a grievance process that
400 complies with the process in policy 1726/4036/7237. An employee-respondent,
401 however, may be placed on administrative leave during the pendency of the
402 grievance process if consistent with applicable state and federal laws.

403
404 Notwithstanding the limitation just described, respondents are subject to
405 emergency removal as described in the next paragraph.

406
407 5. Emergency Removal of Respondent from School or Employment

408
409 Any respondent is subject to removal from the school system's education program
410 and activities, or any part of the program or activities, on an emergency basis if a
411 school-based threat assessment team conducts an individualized safety and risk
412 analysis and determines that removal is justified because the person poses an
413 immediate health or safety threat to any person arising from the allegations of
414 sexual harassment. A removal under this subsection includes a transfer of a
415 student to an alternative education program consistent with policy 3470/4305,
416 Alternative Learning Programs/Schools. A schedule change, and/or removing a
417 student from an extracurricular activity is also considered a removal under this
418 subsection where such action would not otherwise constitute a supportive
419 measure.

420
421 The emergency removal may take place regardless of whether a formal complaint
422 has been filed. However, any such removal must be consistent with federal and
423 state law, including any applicable law protecting the rights of individuals with
424 disabilities. The respondent shall receive notice of the removal and an
425 opportunity to challenge the decision in an informal hearing with the
426 superintendent or designee immediately following the removal.

427
428 An employee may be placed on administrative leave with or without pay during
429 the pendency of the grievance process set out in policy 1726/4036/7237, Title IX
430 Sexual Harassment Grievance Process, if consistent with state law and in

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431 accordance with any applicable requirements of state law. Placing an employee
432 on leave during the pendency of the grievance process is not an emergency
433 removal.

434
435 The superintendent or designee shall document all emergency removal decisions
436 under this subsection, including the immediate threat to health or safety that
437 justified the removal.

438
439 **6. Supportive Measures**

440
441 Supportive measures will be available to both the complainant and respondent
442 before or after the filing of a formal complaint or where no formal complaint has
443 been filed. Supportive measures will remain confidential to the extent that
444 maintaining such confidentiality does not impair the ability to provide the
445 supportive measures. The Title IX coordinator is responsible for coordinating the
446 effective implementation of supportive measures.

447
448 **E. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS**

449
450 The grievance process for formal complaints of sexual harassment under this policy is set
451 out in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process. The
452 policy also provides an informal resolution process for complainants who seek an
453 alternate means of resolution to their complaint.

454
455 As described in subsection D.3 above, the Title IX coordinator may also initiate the
456 grievance process, as needed.

457
458 **F. RECORDS**

459
460 The Title IX coordinator shall create and maintain for a period of seven years records of
461 all reports and formal complaints of sexual harassment. For each report or formal
462 complaint, the coordinator shall document the following:

- 463
464 1. any actions, including any supportive measures, taken in response to the report or
465 formal complaint;
466
467 2. that school officials have taken measures that are designed to restore or preserve
468 equal access to the school system's education program and activities;
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470 3. why school officials believe their response to the report or complaint was not
471 deliberately indifferent; and
472
473 4. if supportive measures were not provided to the complainant, why that was not

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474 clearly unreasonable in light of the known circumstances.

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476 In conjunction with the superintendent, the Title IX coordinator shall also maintain for seven
477 years all materials used to train the Title IX coordinator, investigators, decision-makers, and any
478 person who facilitates an informal resolution process. These materials will be made publicly
479 available on the school system's website.

480

481 Legal References: Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*,
482 34 C.F.R. pt. 106; *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998); *Davis*
483 *v. Monroe County Board of Education*, 526 U.S. 629 (1999); G.S. 115C-335.5

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485 Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235),
486 Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Alternative Learning
487 Programs/Schools (policy 3470/4305), Staff-Student Relations (policy 4040/7310), Child Abuse
488 and Related Threats to Child Safety (policy 4240/7312), Bullying and Harassing Behavior
489 Prohibited (policy 4329/7311), Discrimination and Harassment in the Workplace (policy 7232)

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491 *Other Resources: Questions and Answers on the Title IX Regulations on Sexual Harassment,*
492 *U.S. Department of Education, Office for Civil Rights (July 2021), available at*
493 <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>

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495 Adopted: August 17, 2020

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497 Revised: February 15, 2021; [DATE]