



Perspectives

Experiences

Nationality

Job Level

Race

Culture

Skills

Sexual

WELCOME TO A WEBINAR ON NEW EQUITY GUIDANCE

February 22, 2016

# Introductions

---

Josie Lewis, Policy/Legal Services Director, Iowa Association of School Boards (IASB)

Nicole Proesch, Attorney, Office of the Director, Iowa Department of Education (IDOE)

Thomas Mayes, Attorney, Division of Learning and Results, Iowa Department of Education (IDOE)

Margaret Jensen Connet, Equity Consultant, Iowa Department of Education (IDOE)

# New Equity Guidance

---

On September 1, 2015, the Iowa Department of Education (IDOE) and the Iowa Association of School Boards (IASB) issued new guidance on two policies and related procedures related to educational equity based on guidance provided by the Office for Civil Rights (OCR), U.S. Department of Education.

- ✓ Districts will have up to one year to implement the changes to current policies and procedures.
- ✓ By Sept. 1, 2016, districts will be accountable for implementing new policies and procedures that align with this guidance.

# Objectives

---

1. Understand the new guidance including:
  - ✓ the difference between the annual and continuous notice of nondiscrimination and
  - ✓ comparison of the process for civil rights grievance procedures and anti-bullying and harassment procedures.
2. School Administrators and Equity Coordinators will know and understand their role in implementing and communicating the new guidance with their community.

# Content of Webinar

---

1. Overview of New Guidance and Rationale: Office for Civil Rights
2. Annual and Continuous Notice of Nondiscrimination
3. Civil Rights Grievance Procedures
4. Anti-Bullying and Harassment Procedures
5. Adoption, Implementation and Follow Through
6. Monitoring by IDOE – Desk Audits and Equity Visits

# 1. Overview and Rationale

---

- Iowa districts are required by law to have board policies addressing discrimination, bullying, and harassment.
- Students achieve better and teachers teach better in safe, equitable and supportive schools.

# Rationale

---

- Role of the Board - Governance (set policy) and monitor/evaluate.
- Role of School Leaders - Implement policy and establish procedures and/or regulations for implementation.
- Role of Equity Coordinators - Implement policy and procedures using best practice.
- Role of all employees - Know the policy and procedures for identifying and reporting discrimination and/or bullying/harassment.

# Federal Civil Rights Laws

---

Title IX Educational Amendments of 1972 (sex equity)

Title VI – Civil Rights Act of 1964 (race and national origin equity)

Section 504 of the Rehabilitation Act of 1973 and Title II Americans with Disabilities Act (disability equity)

Office for Civil Rights Guidelines 1979 (career and technical education equity)

# Office for Civil Rights

---

The mission of the Office for Civil Rights (OCR) at the U.S. Department of Education is “to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation’s schools.”

- ✓ OCR issues guidance in the form of Dear Colleague Letters.

# OCR Dear Colleague Letters

---

April 4, 2011 on sexual harassment

October 26, 2010 on bullying and harassment

October 21, 2014 on bullying of students with disabilities

April 24, 2015 on Title IX Coordinators Guide

## 2. Annual and Continuous Notice of Nondiscrimination

---

### PRIOR GUIDANCE

Prior to August, 2015, the guidance for the publication of the annual and continuous notice of nondiscrimination indicated a district could use the same terminology for both notices.

### NEW FOR 2015-2016

Beginning September 1, 2015, the new guidance for the publication of the annual and continuous notice of nondiscrimination indicates there are two different notice requirements:

# Why Two Notices?

---

- Two different purposes
- Two different time frames
- Two different audiences
- Two different levels of specificity

# Annual Notice: Guidelines for Eliminating Discrimination in Career and Technical Education (CTE) Programs: Section IV-O

---

The annual notice of nondiscrimination must:

- be published prior to the beginning of each school year;
- include all of the protected classes;
- include the name, title, address, telephone number and email address of person(s) designated to coordinate Title IX and Section 504 compliance;
- include the district's grievance procedure;
- *and* must include a brief summary of the recipient's program offerings and admissions criteria for career and technical education programs.

# Overview of Annual Notice Requirement

---

Three basic elements:

1. A statement of nondiscrimination that specifies the bases for nondiscrimination;
2. A brief summary of the recipient's program offerings and admission criteria; and
3. The name, address, and telephone number of the Title IX coordinator and Section 504 coordinator.

# In Iowa, the six areas of Career and Technical Education Programs:

---

\_\_\_\_\_ Agricultural Education

\_\_\_\_\_ Business and Office Education

\_\_\_\_\_ Health Occupations Education [Health Science]

\_\_\_\_\_ Family and Consumer Sciences Education

\_\_\_\_\_ Industrial Education

\_\_\_\_\_ Marketing Education

# Publication of Annual Notice

---

- ✓ Must be published prior to the beginning of each school year.
- ✓ Publication must reach students, parents, employees, and the general public.
- ✓ It is generally acceptable to publish the annual notice only on the recipient's website.

# Notice to English Learners

---

If the recipient's service area contains a community of national origin minority persons with limited English language skills, the annual notice must:

- ✓ be disseminated to that community in its language and
- ✓ state that recipients will take steps to assure that the lack of English language skills will not be a barrier to admission and participation in the recipient's CTE programs.

# Examples and explanations:

---

On the first day of classes, the South Texas Community College published a notice in its campus newspaper that “STCC does not discriminate against anyone for any reason. If you think you have been discriminated against, you should contact the Office for Civil Rights.”

?

# Continuous Notice

---

The continuous notice of nondiscrimination must include all of the protected classes; the name, title, address, telephone number and email address of person(s) designated to coordinate Title IX and Section 504 compliance; and the district's grievance procedure. Continuous notice requirements is met by prominently publishing the nondiscrimination notice on an on-going basis in all major district publications.

# Continuous Notice of Nondiscrimination

---

Title VI - 34 C.F.R. § 100.6(d): Compliance Information  
(Information to beneficiaries and participants)

Title IX - 34 C.F.R. § 106.9: Dissemination of policy

Section 504 - 34 C.F.R. § 104.8: Notice

Title II - 28 C.F.R. § 35.106: Notice

# Overview of Continuous Notice Requirement

---

Two basic elements:

1. A statement of nondiscrimination that specifies the bases for nondiscrimination and
2. The name, address, and telephone number of the Title IX coordinator and Section 504 coordinator.

A Sample Continuous Notice of Nondiscrimination can be found [here](#).

# Publication of Continuous Notices

---

Publication must reach participants, beneficiaries, applicants for admission and employment, sources of referral of such applicants, employees (including persons with impaired vision or hearing), and unions with collective bargaining agreements. Places to publish:

- Application forms, catalogs, and other recruiting materials
- Recipient's newsletter and magazines
- Website and electronic publications
- Written materials distributed to students
- Local newspapers

# Guidance

---

Guidance for Nondiscrimination Notices from the Iowa Department of Education can be found on the IDOE website [here](#).

IASB Sample Policy 102 and the supporting documents in the 102 series contained in the IASB Policy Reference Manual can be found [here](#).

# Examples and explanations:

---

All district recruiting materials include the following statement:

“XYZ School District does not discriminate on the basis of race, color, ethnicity, gender, handicap or age in its programs or activities. If you have questions, please call 555-867-5209.”

?

# 3. Civil Rights Grievance Procedures

---

Prior to **August, 2015**, the IASB sample policy and related procedures described a four-step process for filing a grievance related to discrimination.

Beginning **September 1, 2015**, the new IASB sample policy and related procedures include steps required by OCR. The new procedures have been simplified and align more closely with related bullying and harassment complaint procedures.

Related IASB Sample Policies: 102 Series

# Why Are They Important?

---

The Iowa Department of Education reviews Title IX and Section 504/Title II grievance procedures under the “**prompt and equitable**” requirements set forth in the Title IX, Section 504, and Title II regulations and OCR’s April 2011 Dear Colleague Letter.

# Why Are They Important?

---

The procedures must have specific time frames for the major stages of the complaint process, such as:

- ✓ filing a complaint;
- ✓ completing the investigation;
- ✓ and appealing any findings.

The grievance procedures must explicitly state that they apply to all complaints of discrimination, including harassment and assault, based on sex or disability, respectively.

## Applicable Requirements: 34 C.F.R. §§104.7(b) and 106.8(b); 28 C.F.R. § 35.107(b)

---

All recipients must:

- ✓ *Adopt and publish* grievance procedures
- ✓ providing for *prompt and equitable* resolution of student and employee complaints alleging discrimination.

OCR recommends that recipients also have procedures for resolving complaints of discrimination based on race, color and national origin.

# Prompt and equitable:

---

## Requirements for the recipient:

- The recipient must provide notice of the procedures to students, parents and employees
- The procedures must apply to complaints alleging discrimination carried out by employees, other students, or third parties.

# Prompt and equitable:

---

## Requirements:

- The procedures must provide an adequate, reliable, and impartial investigation of complaints, including opportunity to present witnesses and other evidence.
- The procedures must designate reasonably prompt time frames for the major stages of the complaint process.

# Prompt and equitable:

---

## Requirements:

- The recipient must provide written notice to the parties of the outcome of the complaint.
- The recipient must also provide assurance that the school will take steps to prevent the recurrence of any discrimination and to correct its discriminatory effects on the complainant and others, if appropriate.

# Voluntary Informal Mechanisms:

---

- Grievance procedures generally may include voluntary informal mechanisms (e.g. mediation) for resolving some types of complaints if the parties agree to do so.
- The complainant must be notified of the right to end the informal process and begin the formal stage at any time.
- In cases involving allegations of sexual assault, mediation is **not** appropriate, even on a voluntary basis.

# Clarifications:

---

- The procedures need not have a particular name (e.g., “Title IX Grievance Procedures”).
- Recipients need not have a separate grievance procedure for each regulation or a separate procedure for sexual harassment.
- Recipients with multiple grievance procedures must make clear when each should be used.
  - District staff should have a clear understanding of the difference between the grievance procedures tied to the master contract/teachers’ association and the civil rights grievance procedures that are the subject of this webinar.

# Iowa Civil Rights Act

---

Some additional requirements:

The grievance procedure must contain all of the protected classes for nondiscrimination in *programs and employment*. The grievance procedure must be adopted by the board and cover students, parents, employees and applicants for employment.

# Iowa Civil Rights Act

---

## Additional protected classes:

### *Programs and Employment:*

- Sexual orientation, Gender Identity, Creed, Religion

### *Programs Only:*

- Marital Status and Socioeconomic Status

### *Employment Only:*

- Age

# IASB Sample Policy/Procedures 102

---

- Contains:
  - Policy 102
  - Supporting Regulation that implements the policy and provides a process for filing complaints, conducting investigations, and making decisions.
  - Supporting Exhibits that implement the policy and regulation.

# For more information on grievance procedures:

---

[The Office for Civil Rights Dear Colleague Letter of April, 2011](#)

Questions and Answers on Title IX and Sexual Violence (April 2014),  
[www.ed.gov/ocr/docs/qa-201404-title-ix.pdf](http://www.ed.gov/ocr/docs/qa-201404-title-ix.pdf)

Revised Sexual Harassment Guidance (January 2001),  
[www.ed.gov/ocr/docs/shguide.html](http://www.ed.gov/ocr/docs/shguide.html)

A checklist for the civil rights grievance procedure can be found in the  
[Equity Document Review Checklist](#)

# 4. "Anti-Discrimination and the Anti-Bullying/Harassment Connection"

---

ANSWER: Office for Civil Rights Dear Colleague Letter of October 26, 2010

Some student misconduct that falls under a school's anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the United States Department of Education's Office for Civil Rights (OCR). By limiting the response to a specific application of its anti-bullying/anti-harassment disciplinary policy and the accompanying procedures, a school may fail to properly consider whether the alleged conduct also results in discriminatory bullying and/or harassment.

# Anti-Bullying and Harassment Policy and Procedures

---

Prior to **August, 2015**, the IASB sample policy for procedures to report complaints related to bullying and harassment included a first step for the complainant to “Communicate to the harasser that the individual expects the behavior to stop, if the individual is comfortable doing so.”

Beginning **September 1, 2015**, the new IASB sample policy and related procedures will remove this first step based on guidance from OCR and research in best practice. The complaint procedure aligns more closely with related grievance procedures in the case of discriminatory harassment.

Related IASB Sample Policies: 104 Series

# Iowa Code 280.28

---

Each school or school district must have a policy prohibiting harassment and bullying of or by students, staff, and volunteers which is based on:

- actual or perceived age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status and
- which creates an objectively hostile school environment.

*281—IAC 12.3(13), Title IX Section 106.31, Iowa Code 280.28(3) and 729A.1*

# IASB Sample Policy 104:

---

- Contains:
  - Policy 104
  - Supporting Regulation that implements the policy and provides a process for filing complaints, conducting investigations, and making decisions.
  - Supporting Exhibits that implement the policy and regulation.

# School's Duties

---

When an investigation reveals that harassment has occurred, a school should take steps reasonably calculated to:

- End the harassment
- Eliminate any hostile environment
- Prevent harassment from recurring, and
- Prevent retaliation against the targeted student(s) or complainant(s)

# Side by Side Comparison of State Anti-Bullying Policy and Federal Civil Rights

---

Iowa Law 280.28	Federal Civil Rights
Target is Student	Target is Student, Employee, Applicant or Parent/Volunteer
Prohibited Bases includes all federal bases and adds: actual or perceived age, creed, religion, marital status, sexual orientation, gender identity, physical attributes, ancestry, political party preference, political belief, socioeconomic status, or familial status.	Prohibited Bases include race, color, national origin, disability and sex

# 5. Adoption, Implementation and Follow Through

---

Is it enough to know the rationale for adopting nondiscrimination policies and to implement the policies? What about the follow through?

Failure to follow a compliant policy is a violation of civil rights law.

# 5. Adoption, Implementation and Follow Through

---

Again, it is important to understand the roles and responsibilities that various individuals and groups play in the process.

- Role of the Board - Governance (set policy) and monitor/evaluate
- Role of district staff - Implement policy and establish procedures and/or regulations for implementation

Through understanding the role that everyone plays, districts ensure that the purpose or goals set out in the policy can be accomplished in a way that benefits Iowa's students.

# Role of the School Board

---

- *Under the Iowa Code, the school board adopts policies for its district.*
- *Policy adoption and review is a local matter; however, each policy must be reviewed at least every five years.*
- *While some policies are district driven, civil rights and bullying/harassment procedures are required by law to be included in district policy manuals.*

# Role of the Superintendent

---

What are the expectations for district leadership to implement the policies?

Does the superintendent regularly review and publish policies?

How does the superintendent ensure the equity coordinator(s) have the support, training and authority they need to implement the policies?

# Role of Equity Coordinator

---

1. Knowledge of Federal and State Civil Rights Laws
2. Board Policies and Administrative Procedures
3. Dissemination of Information (Notification)
4. Professional Development
5. Facilitating the Grievance Process
6. Monitoring and Analysis of Disaggregated Data

# Role of Investigator

---

- Promptly\* respond to complaints
- Promptly and fully investigate complaints
- Promptly issue a report with respect to the findings

\*Promptly = Specific Time Frames in Policy

# Role of IDOE

---

What are the expectations of the Iowa Department of Education to follow through and monitor to ensure districts are fully implementing the policies?

## **6. Monitoring by IDOE**

---

Annual Desk Audits: Every year the IDOE will check **Annual and Continuous Nondiscrimination Notices**

# Equity Visits:

---

Approximately seven districts are selected each year according to the Targeting Plan approved by the Office for Civil Rights at the U.S. Department of Education.

# Selection Criteria:

---

- (1) A review of course and program enrollment data in career and technical programs disaggregated on the basis of gender, disability and racial/ethnic background;
- (2) Changing demographics within the boundaries of an educational agency;
- (3) Complaints received from parents, students, staff, applicants for employment or community representatives; and
- (4) The time elapsed since the district's last equity review.

# Purpose of the Equity On-site Review

---

To determine the school's compliance with the federal and state civil rights laws and regulations. The team compiles a Letter of Finding based on the eight areas required by OCR.

# Eight Areas:

---

- Administrative Requirements;
- Recruitment, Admissions and Counseling;
- Accessibility;
- Comparable Facilities;
- Services for Students with Disabilities;
- Financial Assistance;
- Work-study, Cooperative Programs, and Job Placements; and
- Employment

# Equity Letter of Finding:

---

Section I: Administrative Requirements contains the annual and continuous notice of nondiscrimination, designation and activities of the equity coordinator(s), and adoption and implementation of civil rights, anti-bullying and anti-harassment grievance procedures.

- Areas of noncompliance are identified.
- The OCR requires implementation of remedies to correct areas of noncompliance be prompt, but reasonable in light of their difficulty. In the case that a remedy will take longer than a year to complete, the plan should include interim measures to address the violation while the long-term remedy is pending.

# Websites

---

[OCR@ed.gov](mailto:OCR@ed.gov)

<https://www.educateiowa.gov/>

<http://www.ia-sb.org/>

# Contact Us:

---

Josie Lewis, Policy/Legal Services Director, Iowa Association of School Boards (IASB): 515-247-7028; [jlewis@ia-sb.org](mailto:jlewis@ia-sb.org)

Nicole Proesch, Attorney, Office of the Director, Iowa Department of Education (IDOE): 515-281-8661; [Nicole.Proesch@iowa.gov](mailto:Nicole.Proesch@iowa.gov)

Thomas Mayes, Attorney, Division of Learning and Results, Iowa Department of Education (IDOE): 515-242-5614;  
[Thomas.mayes@iowa.gov](mailto:Thomas.mayes@iowa.gov)

Margaret Jensen Connet, Equity Consultant, Iowa Department of Education (IDOE): 515-281-3769; [Margaret.jensenconnet@iowa.gov](mailto:Margaret.jensenconnet@iowa.gov)

# Thank You for Joining Us

---

?