

TITLE IX REGULATORY CHANGES AND KEENAN SAFESCHOOLS AND KEENAN SAFE COLLEGES TRAINING RESOURCES

On August 14, 2020, the Title IX regulatory changes promulgated by the U.S. Department of Education under Secretary Betsy DeVos took full effect. These regulations impact K-12 schools as well as colleges (collectively referred to here as “schools”).

Key provisions of the new Title IX regulations included rules regarding the following:

- Defining sexual harassment to include sexual assault, dating violence, domestic violence, and stalking, as unlawful discrimination on the basis of sex.
- Defining actual knowledge of sexual harassment on the part of K-12 schools, colleges and universities.
- Requiring schools to respond when sexual harassment occurs in the school’s education program or activity, against a person in the United States.
- Expanding a school’s obligations to ensure its educational community knows how to report to the Title IX coordinator.
- Requiring schools to promptly respond to Title IX sexual harassment in a manner that is not deliberate indifferent, and that includes an offer of supportive measures to the complainant.
- Investigation of formal complaints of sexual harassment, in a manner that follows a grievance process.
- Providing for the protection of the privacy of the parties during a Title IX sexual harassment investigation.
- Providing for a live hearing and cross-examination as part of the grievance process at postsecondary institutions.
- Allowing the school’s grievance process to state whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard; using the same standard of evidence for formal complaints against students as for formal complaints against employees.
- Offering both parties an appeal from a determination regarding responsibility.
- Allowing schools to choose to offer voluntary informal resolution options.
- Prohibiting retaliation.

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TITLE IX TRAINING REQUIREMENTS

Additionally, these regulations include robust training requirements for Title IX Coordinators and other decision-makers at any institution subject to Title IX. Under the regulations, Title IX Coordinators, investigators, decision-makers and persons who facilitate an informal resolution process must receive training.

Training must cover:

- The new definition of sexual harassment;
- The scope of the education programs subject to the school's Title IX policy;
- The process of conducting an investigation;
- The grievance process (including hearings, appeals, and informal resolution); and
- How to serve impartially, avoiding bias and conflicts of interest.

Different participants in a school's Title IX compliance program will need different types and levels of training. The regulations do not address when or how often training must be provided, or how long the training sessions should be.

KSS AND KSC TRAINING RESOURCES

As schools and colleges turn from updating policies and procedures to enacting training, we have been asked to give some details on how Keenan's SafeSchools (KSS) and SafeColleges (KSC) courses fit into a Title IX training program. None of these courses provides complete training at every level, but the attached documents show how these courses can be used as a foundation of Title IX training.

Please contact your Keenan Account Manager for further information.

Keenan & Associates is not a law firm and no opinion, suggestion, or recommendation of the firm or its employees shall constitute legal advice. Clients are advised to consult with their own attorney for a determination of their legal rights, responsibilities and liabilities, including the interpretation of any statute or regulation, or its application to the clients' business activities.

TITLE IX COMPLIANCE WITH KEENAN SAFESCHOOLS

Title IX is a new regulation with many compliance actions. Keenan SafeSchools has training that will help with some of those compliance elements.

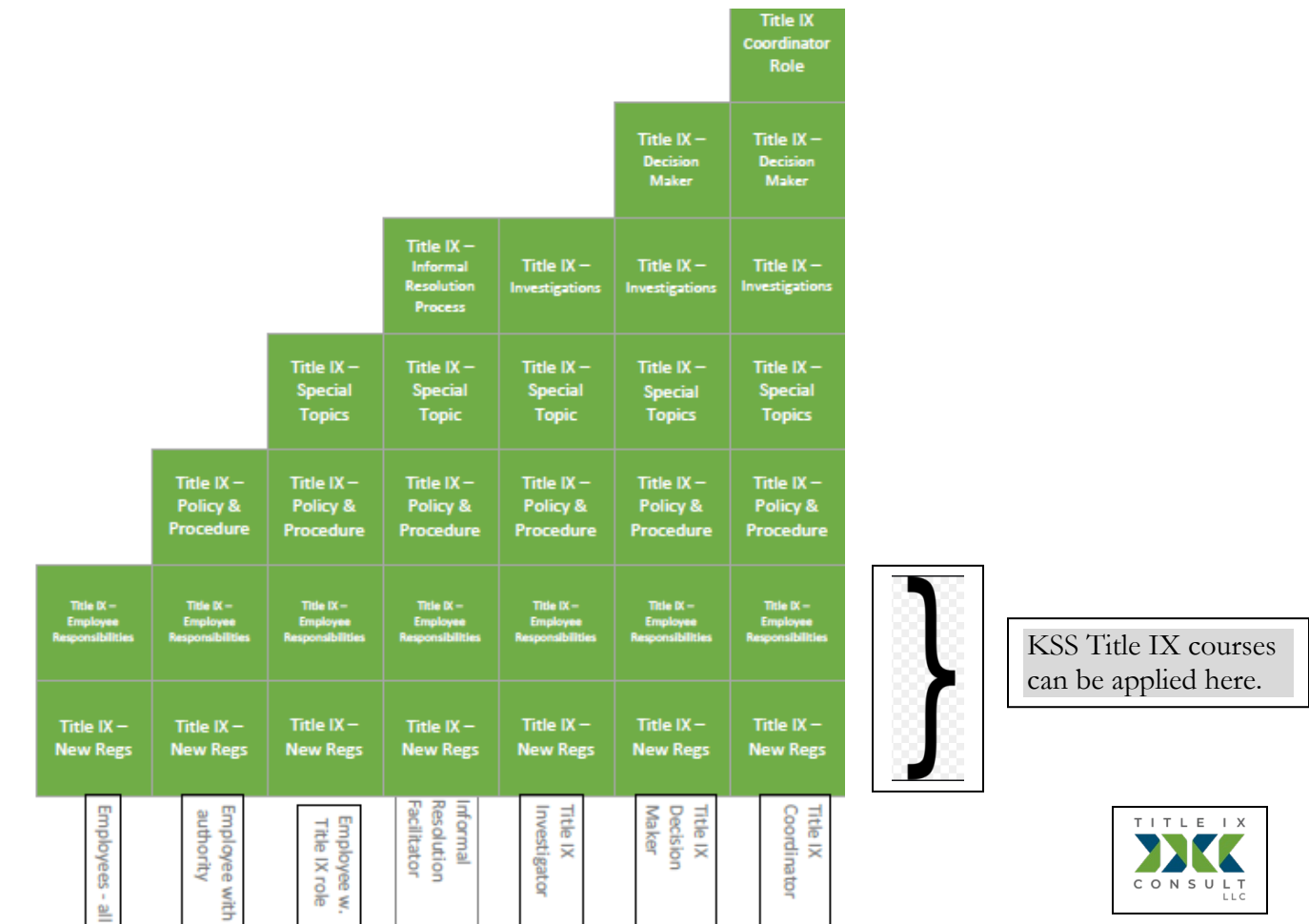
All Employees should be assigned the following Keenan SafeSchools courses, initially and then annually:

- Sexual Harassment Prevention: Staff to Staff
- Sexual Harassment Prevention: Student Issues and Response
- Title IX Compliance Overview

NOTE: In addition to assigning these three courses, you must upload, assign and track your specific:

- District Title IX Policy
- District Title IX Procedures

NOTE: Please be aware that relying on Keenan training to satisfy the new Title IX regulations will NOT guarantee compliance. There are many actions necessary for Title IX compliance, as you can see from the diagram below, provided with permission by Megan Farrell, Title IX Consult, LLC.



Please contact your Keenan & Associates Account Manager if you need more information.

Course Descriptions

- **Sexual Harassment Prevention: Staff-to-Staff (Complete – 34 minutes)**
The Keenan SafeSchools *Sexual Harassment Prevention: Staff to Staff* course provides background information on sexual harassment; offers several scenarios for sexual harassment; identifies indicators of inappropriate behaviors; and states the legal rights, responsibilities, and liabilities of employees. This course is also offered in **Spanish**. Updated 9/9/20.
- **Sexual Harassment Prevention: Student Issues and Response (34 minutes)**
Keenan SafeSchools' Sexual Harassment Prevention: Student Issues & Response course provides background information on sexual harassment; offers several scenarios for both student-to-student and adult-to-student sexual harassment; identifies indicators of inappropriate behaviors; states the legal rights, responsibilities, and liabilities of institutions and individuals. (Updated 6/6/20)
- **Title IX Compliance Overview (44 minutes)**
Title IX is used to prevent discrimination in educational institutions that receive federal funds. Specifically, the law governs the way in which institutions must handle accusations of sexual harassment to ensure that investigations are transparent and fair. This course is designed to provide school staff with an overview of Title IX regulations to ensure their school district is in compliance. Topics covered include the role of legal precedent, regulatory and subregulatory guidance related to Title IX; relevant terminology used in Title IX guidance; and guidelines school districts must follow to remain in compliance with the law. New course 9/9/20 and includes the 8/14/20 updates to Title IX.

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