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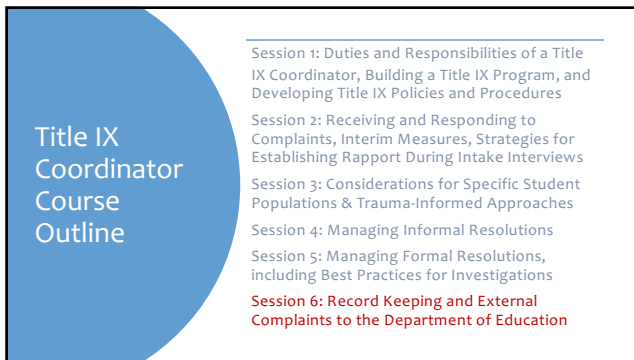
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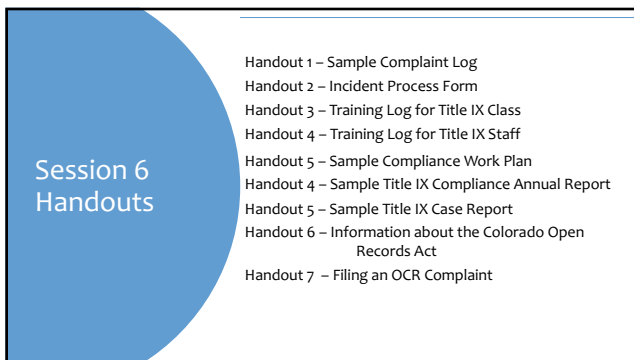
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## Record Keeping

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### Department of Education Regulations

The regulations impose recordkeeping requirements in relation to Title IX matters. School must maintain case files and training records for a period of **7 years from the complaint or training activity**. Most schools find it is easier to discard records by calendar year.  
**Example:** at the end of 2021, discard records from 2014

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### Department of Education Regulations – Case Files

**Case records that must be maintained for 7 years:**

- Records of sexual harassment investigations including:
  - any determination of responsibility
  - any audio or audiovisual recording or transcript
  - any disciplinary sanctions imposed on the respondent
  - any remedies provided to the complainant
- Records of any appeal and the results of the appeal.
- Records of any informal resolution and the results of that informal resolution.
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

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## Department of Education Regulations

- The regulations do not include and specific requirements for how you manage your case files or keep track of the cases you handle.
- See **Handout 1** for an example of a case log to aggregate information in case of a DoE request.
- See **Handout 2** – Incident Process Form (from Session 2) which can be used for a case file.

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## Department of Education Regulations – Training Records

- Training records that must be maintained for 7 years:**
- All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process (see **Handouts 3 and 4** for tools to keep track of training)
  - The school must make training materials publicly available on its website or **available for inspection by the general public upon request.**

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## Who is responsible for maintaining Title IX records?

- Title IX Coordinators are ultimately responsible for maintaining all Title IX records.
- Take this responsibility seriously.
- Develop forms and systems to help make it easier to maintain the files.
- Maintain Title IX files away from files related to employee or student records, disciplinary matters, etc.

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## Recordkeeping Best Practices

- Aggregate Your Information!
  - Create logs (see [Handout 1](#) – Complaint Log)
  - Document any compliance plans you have for the year and maintain it throughout the year (see [Handout 5](#) – Compliance Work Plan)
  - Prepare reports for each year (academic or calendar) (see [Handouts 6 and 7](#) for examples)
- These allow you to report on Title IX compliance without having to create records.
- Helpful when dealing with governance Boards, the media, and Department of Education

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## Where should a school keep them?

- Treat physical files as confidential (like medical records):
  - Under controlled area
    - Title IX Coordinator's office
    - HR office
  - Locked
  - Access to files limited to people with need-to-know
- Electronic files
  - Secure area of IT system
  - Use most secure 3<sup>rd</sup> party file-sharing programs your organization allows
  - Access to files limited to only people with need-to-know

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## Colorado Open Records Act (CORA)

The Colorado Open Records Act (referred to as 'CORA') requires that the public have access to most public records.

A **public record** includes most documents made, maintained, or kept by government entities, including public schools.

There are exceptions to public records under CORA.

See [Handout 8](#) for a full explanation

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Colorado Open  
Records Act  
(CORA)

**What Title IX Records can be released under CORA**

- The results of OCR compliance investigations
- Lists of schools with Title IX violations from the Department of Education
- Details about the disciplinary process at a school, including:
  - What standard of evidence the school uses in Title IX cases
  - possible sanctions imposed
  - protective measures offered

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Colorado Open  
Records Act  
(CORA)

**What Title IX records **are not** available under CORA**

- Records of sexual harassment complaints and investigations, with certain exceptions;
- Personnel files, except “applications and performance ratings”

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Colorado Open  
Records Act  
(CORA)

**If you have a question about whether the school should comply with a request for Title IX records, make sure you are getting legal advice!**

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## Department of Education OCR Complaints

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## Department of Education

"The U.S. Department of Education is the agency of the federal government that establishes policy for, administers and coordinates most federal assistance to education. It assists the president in executing his education policies for the nation and in implementing laws enacted by Congress. The Department's mission is to serve America's students-to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access."

- US Department of Education website  
<https://www2.ed.gov/about/overview/focus/what.html>

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## Department of Education

- Began in 1867 as a means of collecting statistics about schools across the nation
  - State and local control of schools was preferred so its powers were very limited.
  - Housed in the Interior Department and Health & Human Services Department
- Made an independent agency in 1979 after funding expanded through 1950s, 1960s, and 1970s
- Currently \$68 billion budget and approximately 4000 employees

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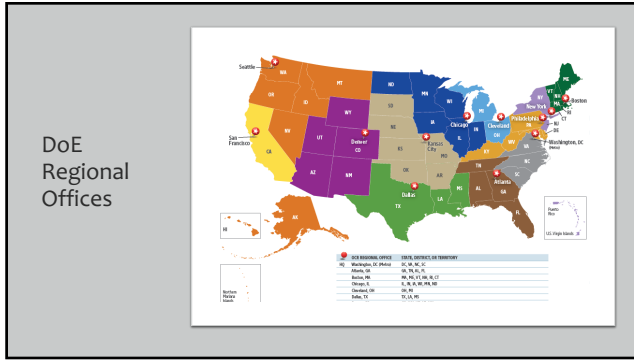
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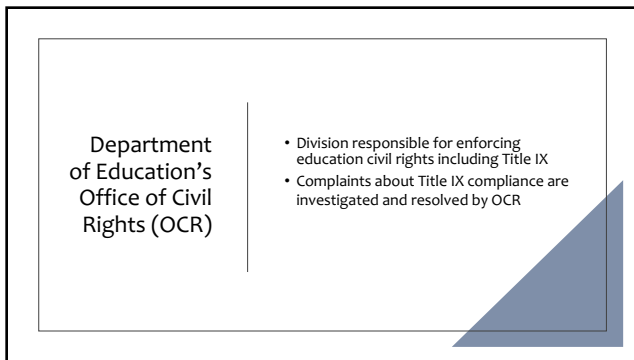
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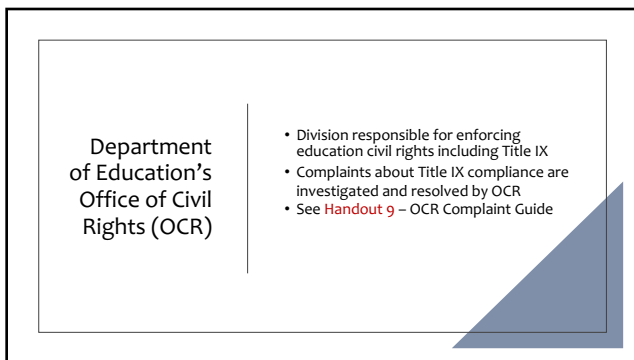
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OCR  
Complaints –  
1<sup>st</sup> stop is your  
school's  
website!

- **Training materials used to train the Title IX Team**  
A school must post all materials used to train its Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
- **Title IX Coordinator Information**  
A school must post the name or title, office address, email address, and telephone number of the employee designated as the Title IX Coordinator.
- **Policy**  
A school must post a copy of its Title IX or nondiscrimination statement.
- **Title IX Sexual Harassment Complaint Process**  
A school must post a copy of its Title IX complaint process.

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OCR  
Complaints –  
Notice of  
Complaint and  
Data Requests

- OCR will notify a school if there has been a complaint filed.
  - In some cases, filed with school district and the district will then refer it to the charter school.
- OCR will refer the issue to the Equal Employment Opportunity Commission (EEOC) or state agency if complaint involves an employee and no students are involved.
- OCR will request the school respond to the complaint and provide data to establish it compliance with Title IX.
  - This is where your logs are helpful!

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OCR  
Complaints –  
Mediation and  
Resolution  
Agreements

- Often, OCR will offer to mediate a resolution between the complaining party and the school. This can be a good option.
- Otherwise, OCR will review the issue, make its determinations and then create a resolution agreement with the school to address the matter.
- Resolution Agreements often require training, policy changes, etc.
- Can be other resolution terms, e.g. restitution for costs incurred by complainant, transcript changes, supportive measures
- **Please seek legal advice for any OCR complaint!**

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Congratulations!

Session 1: Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, Developing a Title IX Policy and Procedures

Session 2: Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport during Intake Interviews

Session 3: Considerations for Specific Student Populations & Trauma-Informed Approaches

Session 4: Managing Informal Resolutions

Session 5: Managing Formal Resolutions, including Best Practices for Investigations

Session 6: Record Keeping and External Complaints to the Department of Education

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