



Title IX and Employment

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Title IX provides that . . .

- No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.
 - 20 U.S.C. 1681(a)

Title IX protection extends to . . .

- “No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to *discrimination in employment* . . . under any education program or activity operated by a recipient which receives federal financial assistance.”
 - 34 C.F.R. 106.51(a)(1)
 - *See also N. Haven Bd. of Educ. V. Bell*, 456 U.S. 512 (1982) (upholding 34 C.F.R. 106.51(a)(1) as a valid interpretation of 20 U.S.C. 1681(a))





Title IX implies . . .

A private right of
action for both
injunctive relief and
monetary damages.

But there's a catch . . .

- Currently, there is a circuit split over the issue of whether Title VII preempts Title IX for claims of employment discrimination.





Discrimination under
Title IX . . .

Title VII is the most
appropriate analogue
when defining Title
IX's substantive
standards

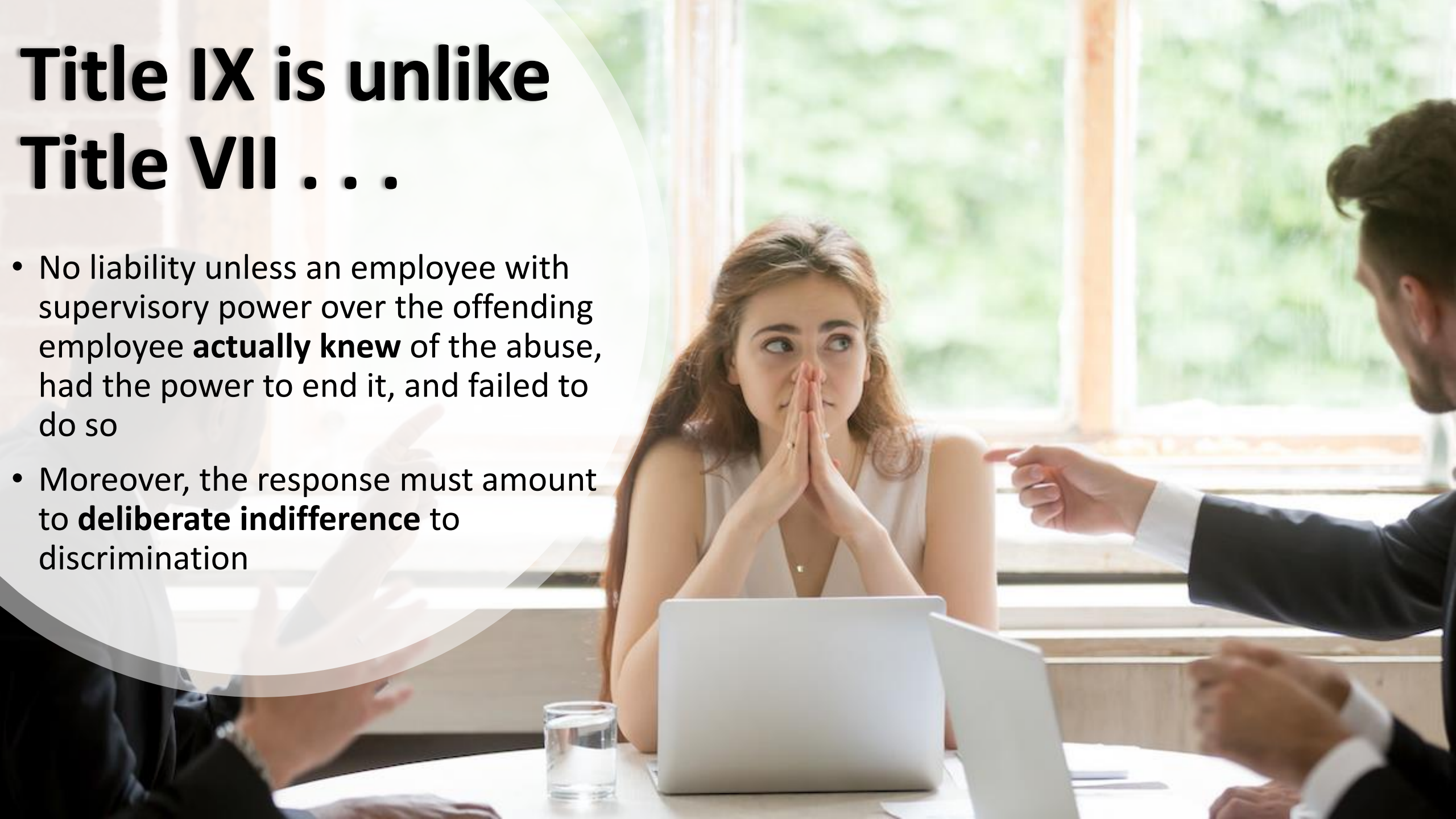
Title IX is like Title VII . . .

Title IX adopts the Title VII standard requiring that the actions be sufficiently severe or pervasive to alter the conditions of the employee's employment and create a hostile work environment.



Title IX is unlike Title VII . . .

- No liability unless an employee with supervisory power over the offending employee **actually knew** of the abuse, had the power to end it, and failed to do so
- Moreover, the response must amount to **deliberate indifference** to discrimination





Retaliation under Title IX . . .

To plead a prima facie case of retaliation, the plaintiff must allege:

- Protected activity;
- Federally funded recipient took an adverse employment action; and
- The adverse action is causally linked to the protected activity.



The scope of Title IX is not limited . . .

Title IX must be given “a sweep as broad as its language,” a requirement that there be a nexus to “education” is not consistent with Title IX’s broad language.



We are here for you . . .

- Before you take disciplinary action, call an Employment Attorney.
- 801-366-0100



Questions?
