

# **TITLE IX/NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION**

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Office of Student Civil Rights and District Title IX Coordinator

# District Title IX Coordinator

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# Who must be notified regarding the Title IX Coordinator's role and contact information?

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- Applicants for employment
- Students, including students who are pregnant or parenting
- Parents or legal guardians of elementary and secondary school students
- Employees
- Community members
- All unions or professional organizations holding collective bargaining or professional agreements with the District

# Title IX Notice Dissemination

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- Nondiscrimination Statement  
<https://www.lausd.org/Page/15101>
- Parent Student Handbook  
<https://www.lausd.org/Page/17131>
- District and Office of Student Civil Rights Website  
<https://lausd.org/oscr>
- Yearly Administrative Certification
- Additional information and resources can be gathered by speaking with your site's Title IX Designee or Title IX/Bullying Complaint Manager.

# What is sexual harassment?

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Conduct based on sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
- Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment).

# What is sexual harassment (more)?

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- Sexual assault – an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- Dating violence – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, the frequency of interaction between the persons involved in the relationship;
- Domestic violence – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or
- Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

# Who can report?

- Any person may submit an oral or written report of sex discrimination, including sexual harassment (whether or not the reporter is the alleged victim)
- Employees may be the ones reporting if they were witnesses to the harassment.
- The report may be made to the District's Title IX Coordinator or school site Title IX Complaint Manager, regardless of that employee's job description.
- A report of sexual harassment requires the school to offer supportive measures to the complainant or alleged target of the conduct and inform the complainant of the process for initiating a Title IX complaint to begin the grievance process.
- The report is made on behalf of an individual known as a complainant; in other words, an individual who is alleged to be the victim of the conduct. Whereas, the respondent is an individual who has been reported as the perpetrator of the conduct. The grievance procedure invoked by filing a complaint by a complainant or the complainant's duly authorized representative is meant to determine whether the respondent was or is engaged in sexual harassment.
- A complaint can be filed by a student, their parent or duly authorized representative, a school site Title IX Complaints Manager; an employee who is alleged to have been subjected to conduct that could constitute sex discrimination; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.
- In summary, a report is different than a complaint. Lastly, it is important to know that a report is also distinguished from making a report of sexual misconduct to law enforcement or child protective services and does not remove a school's responsibilities under Title IX, except for delays that may result from a good cause related to a law enforcement investigation.

# How can someone report?

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Reports of sex discrimination or sexual harassment can be made to the Title IX Coordinator in various ways, but not limited to the following:

- In person
- By mail
- By telephone
- By email
- By other means that results in the Title IX Coordinator receiving the report

Once the Title IX Coordinator, Title IX Designee, or other official with authority to take corrective action has received the report of sexual harassment, the District will both offer supportive measures to involved parties and will assist the complainant or the complainant's representative in understanding the grievance process in order to file a formal complaint of sexual harassment. The site personnel are essential in helping to coordinate the provision of supportive measures with the parties due to their more direct access to the parties.

# The Formal Complaint

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Complaint means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX. Written complaints may be filed via electronic submission (such as by email or the online Title IX complaint portal).

# When does the District have notice?

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When sexual harassment or allegations of sexual harassment have come to the attention of:

- The Title IX Coordinator
- A District official who has the authority to institute corrective measures on behalf of the District
- Any elementary or secondary school employee

# When does the District have notice?

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## **Confidential and Non-confidential Employees**

Once a District non-confidential employee has information about conduct that reasonably may constitute sex discrimination under Title IX, they must notify the District Title IX Coordinator; or provide the contact information of the District Title IX Coordinator and information about how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under Title IX.

Confidential employees are required to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX that the employee's status is confidential for purposes, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination; how to contact the District's Title IX Coordinator and how to make a complaint of sex discrimination; and that the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Employees should contact their school or worksite's Title IX/Bullying Complaint Manager or the District Title IX Coordinator for support. The District is to facilitate providing supportive measures to involved parties and ensure that the complainant understands how to report a complaint to the District Title IX Coordinator under Title IX to initiate the grievance process. A handout is available to ensure complainants are afforded their rights. A site administrator or Title IX Designee can facilitate this support and education. A link and a downloadable copy of the complaint form is available on the District's Office of Student Civil Rights website for accessing the Title IX complaint form.

# Who is protected by Title IX?

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- Title IX protects against sex discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

# Who is protected by Title IX?

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Title IX applies to sex discrimination occurring under a District education program or activity in the United States. Conduct that occurs under the District's education program or activity includes but is not limited to conduct that is subject to the District's disciplinary authority. The District has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the District's education program or activity or the United States.

# Title IX Protections for Pregnant/Parenting Students

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- Prohibits the District from treating students, employees, or applicants differently based on sex in connection with parental, family, or marital status.
- Prohibits discrimination against students, employees, or applicants based on pregnancy or related conditions and requires recipients to take actions to prevent sex discrimination and ensure equal access to the recipient's education program or activity, such as by providing reasonable modifications for students, reasonable break time for lactation for employees, and lactation space for students and employees.
- Prohibits schools from requiring student documentation to obtain reasonable modifications or other actions unless such documentation is necessary and reasonable.
- Staff who are made aware of a pregnant or parenting student must refer the student to the school site Title IX designee to ensure the provision of procedural safeguards.

# Title IX Protections for Pregnant/Parenting Students

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- The District must ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the recipient's education program or activity.
- The District must make reasonable modifications as necessary to prevent sex discrimination and ensure equal access to the recipient's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required under this paragraph, the recipient must consult with the student. Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.
- A modification that would fundamentally alter the nature of its education program or activity is not a reasonable modification.

# How must the District respond?

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- The District must respond promptly in a manner that is not deliberately indifferent; in other words, the District must respond reasonably in light of known circumstances.
- The District must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with Title IX before any disciplinary sanctions are imposed.
- The District must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity.

# What are supportive measures?

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Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent and designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment or deter sexual harassment.

For example, our District offers the following range of supportive measures:

Referrals for Student Support Progress Team meetings or SSPTs; options to avoid contact or mutual restrictions on contact between the parties, such as seating and class changes, changing student groupings, changes in work locations, leaves of absence, safety plans, safe paths of travel, increased security and monitoring of certain areas of campus to prevent reoccurrence and other similar measures; Training and educational materials; and other supports, such as academic supports, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, counseling, health support, mental health supports, and Restorative Justice.

The Title IX Coordinator and site designees are responsible for promptly coordinating effective and confidential implementation of supportive measures in an equitable manner for the parties, such as the types of measures indicated earlier, to ensure appropriate support whether or not an affected student chooses to file a formal Title IX complaint. It is important to consider the complainant's wishes as to supportive measures and to inform the complainant that supportive measures are available with or without filing a formal Title IX complaint. This support is in addition to separately explaining the process for filing a formal Title IX complaint to the complainant.

# When to Initiate a Title IX Complaint When Notified of Conduct that Reasonably May Constitute Sex Discrimination Under Title IX

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The Title IX Coordinator must consider, at a minimum, the following factors in determining whether to initiate a Title IX complaint:

- (1) The complainant's request not to proceed with initiation of a complaint;
- (2) The complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- (5) The age and relationship of the parties, including whether the respondent is an employee of the recipient;
- (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals.
- (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- (8) Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

# Informal Resolutions

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- Once a formal complaint is filed, the parties have notice of the allegations and the informal resolution process, and before a final determination, the parties can agree voluntarily, and in writing to an informal resolution, such as mediation, that does not involve a full investigation and determination.\*
- Any party can withdraw from the informal resolution process and resume the grievance process. Records of the informal resolution result and consequences will be maintained and could be shared.

This does not apply to allegations that an employee sexually harassed a student or when the alleged conduct would present a future risk of harm to others.

# Informal Resolutions

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- The Title IX Coordinator may decline to allow informal resolution after a determination that the alleged conduct would present a future risk of harm to others.
- The Title IX Coordinator must not require or pressure the parties to participate in an informal resolution process.
- The Title IX Coordinator must obtain the parties' voluntary consent to the informal resolution process and must not require a waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

# Informal Resolutions

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- The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the District's grievance procedures.
- Any person designated by the Title IX Coordinator to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- Any person facilitating informal resolution must receive specialized Title IX training.

# Emergency Removals

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After an individualized safety and risk analysis is performed, it is determined that there is an immediate threat to the physical health or safety of any student or other individual arising from the sexual harassment allegations, a removal of the respondent may be justified during the pendency of the grievance process. In such an instance, the respondent must be given notice and an opportunity to challenge the decision immediately following the removal. These removals may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Education Act. Separately, the District may place a non-student employee respondent on administrative leave during the pendency of the grievance process.

# The Grievance Procedure

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- The grievance procedure provides due process and fundamentally fair procedures to adjudicate the allegations of sexual harassment.
  - Parties are entitled to a fair and equitable process that applies equally to both parties; the District must follow the TIX grievance process and investigative process, including appeals and informal resolutions. Respondents are not subject to disciplinary sanctions before the conclusion of the grievance process.
  - For example, the process requires that both parties receive notice regarding the sexual harassment allegations intended for investigation and any new allegations that arise for investigation, as well as opportunities for both parties to inspect and review the evidence during the investigation, to submit questions for the parties, to receive a written determination regarding responsibility and an opportunity to appeal the determination regarding responsibility.
  - Filing a formal complaint by the alleged victim, their legal representative, or the Title IX Coordinator and going through the grievance procedure to a final determination is the only way formal discipline can be imposed on the respondent under the Title IX rule. If the conduct does not rise to the level of a Title IX investigation, other student or employee-related discipline protocols may be followed.
  - Overall, the grievance procedure is to be completed promptly (generally considered by District policy guidance to be 60 days) and will only be extended for good cause. Any extension of time frames and the rationale will be provided in writing to the parties. Examples of good cause are the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. To begin the grievance procedure, the complainant, the complainant's representative, or the Title IX Coordinator must file a complaint requesting that the grievance procedure be initiated. A complaint filing link can be found on the Office of Student Civil Rights website, Title IX page.

# The Grievance Procedure (cont.)

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- Each party must receive the same notice which should include the following:
  - Sufficient details that are known at the time of the alleged harassment
  - Any additional allegations that arise during the investigation
  - A statement that each party has the right to an advisor of their choice, who may be but is not required to be, an attorney, and who can accompany them to any related meeting
  - Available supportive measures
  - The respondent is presumed not responsible for the alleged conduct, and the determination regarding responsibility is made after the grievance process, with the burden of proof falling on the District
  - The parties must not knowingly make false statements

# The Grievance Procedure (cont.)

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- Schools must not prevent the parties from discussing the allegations per First Amendment protections or from gathering and presenting relevant evidence
- During the investigation, the parties must be given advance notice (5 days) of the date/time/location/participants, and purpose of the interview or meeting, with sufficient time to prepare when being asked to participate in an interview or meeting; all parties must be informed of the range of remedies and or disciplinary sanctions, the standard of proof which is considered the preponderance of the evidence standard or “more likely than not” that it occurred/the right to an appeal, and what supportive measures are available.
- All involved parties have an equal opportunity to review the evidence gathered over 10 days and will have opportunities to ask for additional relevant questions to be considered and provide more evidence before the investigation summary is provided to the parties simultaneously.
- Then, the investigative report, which fairly summarizes relevant evidence, is circulated to the parties at the same time before the final determination is made by a decision-maker.

# The Final Determination

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The decision-maker simultaneously provides the final determination of responsibility, including a summary of the investigation procedures, an analysis of each allegation and its conclusion, whether remedies were offered to the complainant, and any disciplinary sanctions imposed on the respondent.

# Bias and Conflicts of Interest

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Any individual designated as a Title IX Coordinator, an investigator, a decision-maker, or any person designated to facilitate an informal resolution process, may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

# Remedies

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Remedies are designed to restore or preserve equal access to the recipient's education program or activity and need not be non-disciplinary or non-punitive and need not avoid burdening the respondent

Discipline Foundation Policy: <https://www.lausd.org/Page/11925>

# Appeals

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- Appeals of a complaint dismissal or the final determination may be made and addressed with a different person than the investigator or decision-maker. Appeals can be made based on the following alleged grounds:
  - Procedural irregularity that would change the outcome;
  - New evidence that would change the outcome and that was not reasonably available when the determination of whether sex-based harassment occurred or dismissal was made; and
  - The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants, respondents, or the individual complainant or respondent that would change the outcome.
- Each party will be given a reasonable and equal opportunity to submit a written statement supporting or challenging the outcome of the original determination.
- A final written decision will be issued simultaneously to the parties, describing the result of the appeal and the rationale for the result.

# Constitutional Protections

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The District must implement Title IX in a manner that comports with the First Amendment and other constitutional protections, such as the Fifth and Fourteenth Amendments.

# Dismissing a Title IX Complaint

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- A Title IX complaint will be dismissed if the conduct alleged would not constitute sexual harassment as defined previously in this training or as referred to under the Title IX regulations;
- The District is unable to identify the respondent after taking reasonable steps to do so;
- If the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the complaint or any allegations voluntarily;
- If the respondent is not participating in the District's programs or activities and is not employed by the District;
- If circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein;
- However, the conduct may be separately addressed under District's policy otherwise if warranted. The District will inform parties in writing at the same time.
- The District will send a written notice simultaneously to the parties of the dismissal with the reasons specified. The decision to dismiss the complaint under Title IX may be appealed by the parties.

# Title IX Roles

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- Title IX Complaints Manager at a school site
- Title IX Coordinator
- Title IX Investigators
- Title IX Decision-Maker
- Title IX Appeals Individual

# Retaliation Protections

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No District personnel or other person may intimidate, threaten, coerce, or discriminate against any individual to interfere with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation or proceeding.

# Prohibited Disclosure of Personally Identifiable Information (PII)

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The District is not permitted to disclose personally identifiable information obtained in the course of Title IX proceedings, except:

- When the District has obtained prior written consent from a person with the legal right to consent to the disclosure.
- When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purposes of this part, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the recipient's education program or activity;
- As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- To the extent such disclosures are not otherwise in conflict with Title IX or this part, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

# Recordkeeping – 7 Years

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- Sexual harassment investigations, determinations (administrative file)
- Supportive measures (MiSiS); or reasonable rationale for not providing them
- Disciplinary sanctions imposed (MiSiS)
- Remedies to the complainant (MiSiS)
- Title IX outcomes (maintained by the Office of Student Civil Rights)

# Resources

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Office of Student Civil Rights

333 S. Beaudry Avenue, 18<sup>th</sup> Floor, Los Angeles, CA 90017

[EquityCompliance@lausd.net](mailto:EquityCompliance@lausd.net)

(213) 241-7682

[www.lausd.org/oscr](http://www.lausd.org/oscr)

Title IX Regulations: <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-106>