

TITLE IX/NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION

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Office of Student Civil Rights and District Title IX Coordinator

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

- Applicants for admission and employment
- Students
- 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

- Parent Student Handbook

<https://achieve.lausd.net/Page/13211>

- District and Office of Student Civil Rights Website

<https://achieve.lausd.net/eeco>

- Yearly Administrative Certification

Who can report?

- Any person may report sex discrimination, including sexual harassment (whether or not the reporter is the alleged victim)
 - The complainant is an individual who is alleged to be the victim of the conduct
 - The respondent is an individual who has been reported to be the perpetrator of the conduct
 - School staff on behalf of a student

What is sexual harassment?

Conduct on the basis of 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;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;

What is sexual harassment (more)?

- 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.

How can someone report?

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

The Formal Complaint

A document or electronic submission (email, online portal provided for this purpose <https://forms.gle/EvXbyAqCN986gBuZ8>) filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting an investigation with the complainant's physical or digital signature or otherwise indicates the complainant is the person filing the formal complaint.

When does the District have notice?

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

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



Who is protected by Title IX?

- Persons in the United States
 - Anyone participating in or attempting to participate in the education program or activity of the District
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How must the District respond?

- The District must respond promptly in a manner that is not deliberately indifferent; in other words, the District must respond in a reasonable manner 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.



What are supportive measures?

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

Informal Resolutions

- Once a formal complaint is filed, the parties have notice of the allegations and the informal resolution process, and prior to 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.

Emergency Removals

If, after an individualized safety and risk analysis, 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 may be justified. Emergency removals are for non-punitive purposes.

The Grievance Procedure

- Provides for the prompt and equitable resolution of student and employee complaints.
- Disciplinary measures are only authorized once the Title IX investigation process concludes. Interim measures should be provided to all parties.
- All parties receive the same notice of the complaint and the opportunity to review evidence during the investigation process.
- The investigation timeframe is 60 days and only extended for good cause (e.g., witness unavailability, extended school breaks).

The Grievance Procedure (cont.)

- Each party must receive the same notice that 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.)

- All involved parties are afforded First, Fifth, and Fourteenth Amendment rights
- All parties are given advance notice (5 days) of the date/time/location/participants and purpose of the interview or meeting
- All involved parties have 10 days to review the evidence, submit additional evidence, and submit questions during the fact-finding phase
- All involved parties have an additional 10-day period to review the investigative report before a separate decision-maker makes the final determination

The Final Determination

- The person deciding the complaint cannot be the person who received the complaint or who investigated it, including the Title IX Coordinator. The decision-maker must provide the final determination of responsibility simultaneously, including how the investigation played out, an analysis for each allegation and its conclusion; whether remedies were offered to the complainant and any disciplinary sanctions imposed on respondent.



Bias and Conflicts of Interest

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

Designed to restore or preserve equal access to the recipient's education program or activity. May include the same as above, however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent

Discipline Foundation Policy: <https://achieve.lausd.net/Page/11925>.



Appeals

- Appeals of a complaint dismissal or the final determination may be made and will be addressed with a different person than the investigator or decision-maker. Appeals can be made based on the following alleged grounds:
 - procedural deficiencies in the Title IX grievance process;
 - newly discovered evidence; or
 - due to a bias or conflict of interest by the Title IX related personnel that affected the outcome.



Constitutional Protections

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

- A complaint will be dismissed if the conduct alleged would not constitute sexual harassment as defined previously in this training or as referred to in regulation, Section 106.30;
- If it did not occur in the District's education program or activity or did not occur in the United States;
- If the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the complaint or any allegations;
- If the respondent is no longer enrolled or employed by the District; or
- 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.

Title IX Roles

- Title IX Designee at a site
- Title IX Coordinator
- Title IX Investigators
- Title IX Decision-Maker
- Title IX Appeals Individual

Note: A separate individual must perform each role. The Title IX Coordinator cannot assume the Investigator role, Decision-Maker role or adjudicate appeals.



Retaliation Protections

No District personnel or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering 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 an investigation or proceeding under this law.

Recordkeeping – 7 Years

- 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)

Resources

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333 S. Beaudry Avenue, 18th Floor, Los Angeles, CA 90017

EquityCompliance@lausd.net

(213) 241-7682

www.achieve.lausd.net/eeco

Title IX: <https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>