

**Regulation 5145.71: Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Status: DRAFT

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The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a student was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity

**district student, while in an education program or activity, was subjected to conduct on or after August 1, 2024, including, but not limited to, conduct that is under the authority of the district, that constitutes sex discrimination, including sex-based harassment. For conduct that occurred prior to this date, the district should utilize its policies in place at the time the alleged sex discrimination, including sex-based harassment, occurred, so long as they are in accordance with the applicable statutes and regulations.**

**Sex discrimination and sex-based harassment include, but are not limited to, sex-based conduct as specified in Administrative Regulation 5145.7 - Sex Discrimination and Sex-Based Harassment.**

**Basic Requirements**

**When implementing Title IX grievance procedures, the district shall: (34 CFR 106.45)**

1. **Treat complainants and respondents equitably**
2. **Ensure that the Title IX Coordinator or designee, investigator, or decisionmaker**<sup>3</sup>. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

All other sexual harassment complaints shall be investigated and responded to pursuant to AR 1312.3 – Uniform Complaint Procedures.

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator using the contact information listed in AR 5145.7 Sexual Harassment.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the process for filing a formal complaint.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations in which a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;

**The investigator and the decisionmaker may be the same person as the Title IX Coordinator or designee.**

3. **Presume that the respondent is not responsible for the alleged sex discrimination, including sex-based harassment, until a determination is made at the conclusion of the grievance procedures**
4. **Establish reasonably prompt timeframes for the major stages of the grievance procedures, such as evaluation**

of whether to dismiss or investigate a complaint, investigation, decision, and appeals if any

5. Establish a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay

Additionally, the district shall not disclose personally identifiable information obtained while implementing Title IX complaint procedures unless the district has obtained prior written consent from a person with the legal right to consent to the disclosure; 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 take action to address conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, in the district's education program or activity; as required by federal law, regulations, or as a condition to a federal award; as required by state or local law; or to the extent such disclosures are not otherwise in conflict with Title IX. (34 CFR 106.44)

If either party is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program or 504 team, to determine how to comply with the requirements of the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973.

#### **Filing a Complaint**

Upon receiving information from an allegation of sex discrimination, including sex-based harassment, the Title IX Coordinator or designee shall notify the individual(s) specified in law of the Title IX grievance procedures, and of the informal resolution process, if available and appropriate.

A *complaint* is an oral or written request that can objectively be understood by the Title IX Coordinator or designee as a request for the district to investigate and make a determination about alleged sex discrimination, including sex-based harassment. (34 CFR 106.21)

Complaints of sex discrimination and sex-based harassment may only be brought by a student, or former student, who was participating or attempting to participate in the district's education program or activity at the time of the alleged sex-based harassment, a parent/guardian or other authorized legal representative with the legal right to act on behalf of the student, or the Title IX Coordinator or designee. (34 CFR 106.45)

If the alleged victim chooses not to bring a complaint, or withdraws any or all of the allegations in a complaint, and in the absence or termination of an information resolution process, the Title IX Coordinator or designee shall consider whether to initiate a complaint. To do so, the Title IX Coordinator or designee shall first consider the following factors: (34 CFR 106.44)

1. The victim's request not to proceed with initiation of a complaint
2. The victim's reasonable safety concerns regarding initiation of a complaint
3. The risk that additional acts of sex discrimination, including sex-based harassment, would occur if a complaint is not initiated
4. The severity of the alleged sex discrimination or sex-based harassment, 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 district
6. The scope of the alleged sex discrimination, including information suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination, including sex-based harassment, occurred

**8. Whether the district could end the alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX grievance procedures**

If, after considering these factors, the Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant or another person, or that the conduct as alleged prevents the district from ensuring equal access to a district program or activity on the basis of sex, the Title IX Coordinator may initiate a complaint.

If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall provide the alleged victim notice of the complaint, as well as other notices as required by the Title IX regulations at specific points in the complaint process. The Title IX Coordinator shall also address reasonable concerns about the victim's safety or the safety of others, including providing supportive measures as described in "Supportive Measures" below, and taking other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district. (34 CFR 106.44)

The Title IX Coordinator or designee, investigator, decisionmaker, other person who is responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45. (34 CFR 106.8, (34 CFR 106.44)

The Title IX Coordinator shall monitor the district for barriers to reporting information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, under Title IX, and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

#### Supportive Measures

Upon receipt of a report of Title IX ~~sexual~~ sex discrimination or sex-based harassment, even if a formal complaint is not filed, the Title IX Coordinator or designee shall promptly contact the complainant to discuss the availability of ~~offer and coordinate~~ supportive measures which are nondisciplinary, nonpunitive, and do ~~not~~ **Supportive measures may vary depending on what the district determines to be reasonably available and shall** not unreasonably burden the other party. ~~Such either the complainant or respondent. Supportive measures shall be provided without charging a fee to the complainant or respondent and be designed to protect the safety of the complainant, respondent, and the district's educational environment, and to provide support during any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44. The district shall not impose such measures for punitive or disciplinary reasons. Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other course-related adjustments; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; campus escort services; modifications of class schedules; mutual restrictions on contact; changes in class locations; increased security; and; monitoring of certain areas of the campus. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)~~

Unless there is an allegation of sex-based harassment or retaliation, the district may provide supportive measures without altering the alleged discriminatory conduct. (34 CFR 106.44)

Upon the conclusion of any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44, the district may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44)

The district shall provide a complainant or respondent for whom supportive measures have been implemented with a timely opportunity to seek, from an impartial employee with authority to modify or reverse the supportive measures, modification or reversal of the district's decision to provide, deny, modify, or terminate such measures, and to seek additional modification or termination of the supportive measures if circumstances materially change. (34 CFR 106.44)

The district shall not disclose information about supportive measures to any person other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless the disclosure is necessary to providing the supportive measures, or restoring or preserving a party's access to the district's education program or activity. (34 CFR 106.44)

## Emergency Removal from School

~~On~~**A student shall not be disciplined for alleged sex discrimination, including sex-based harassment, under Title IX until the investigation has been completed. However, on** an emergency basis, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an ~~immediate~~**imminent and serious** threat to the physical health or safety of ~~a complainant or~~ any student, ~~employee~~, or other individual arising from the allegations, and provides the ~~student~~**respondent** with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act/**IDEA** or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

## Dismissal of Complaint

The Title IX Coordinator shall ~~or designee may~~ dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint that did not occur in the ~~;~~ **(34 CFR 106.45)**

1. **The district is unable to identify the respondent after taking reasonable steps to do so**
2. **The respondent is not participating in the** district's education program or activity ~~or did and is not occur against a person employed by the district~~
3. **The district determines that the conduct alleged** in the United States, and may dismiss a formal **complaint, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX**

**Before dismissing the** complaint ~~if,~~ **the Title IX Coordinator shall make reasonable efforts to clarify the allegations with** the complainant ~~notifies the district in writing that the~~.

4. **The complainant would like to withdraw the** ~~voluntarily withdraws any or all of the allegations in the complaint or any allegations in the~~ **, the Title IX Coordinator declines to initiate a** complaint, the respondent is no longer enrolled or employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to ~~and the Title IX Coordinator determines that,~~ **without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint.**(34 CFR 106.45), ~~if any, would not constitute sex discrimination, including sex-based harassment, under Title IX, even if proven~~

**The Title IX Coordinator shall determine whether to dismiss or investigate any complaint of sex discrimination, including sex-based harassment, within 30 days, unless such timeline is extended in accordance with this administrative regulation.**

Upon dismissal, the Title IX Coordinator shall promptly, and simultaneously to the parties, send written ~~notify the complainant of the dismissal and the reasons for the dismissal. Additionally, if the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator shall provide such notification to the respondent, which shall occur simultaneously to both parties if the notification is in writing. The Title IX Coordinator shall also inform the complainant, and the respondent if the dismissal occurs after the respondent has been notified of the allegations, of their right to appeal. Dismissals may be appealed on the following bases:~~ **(34 CFR 106.45)**

1. **A procedural irregularity that would change the outcome**
2. **New evidence that would change the outcome and that was not reasonably available when dismissal was made**
3. **The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome**

**If the dismissal is appealed, the district shall: (34 CFR 106.45)**

- 1. Notify the parties of any appeal, including notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)allegations, if notice was not previously provided to the respondent**
- 2. Implement appeal procedures equally for the parties**
- 3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint**
- 4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations**
- 5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome**
- 6. Notify the parties of the result of the appeal and the rationale for the result**

**If a complaint is dismissed on the grounds that the alleged conduct, the Title IX Coordinator or designee shall offer supportive measures as described above in "Supportive Measures" to the complainant. Additionally, the respondent shall be offered supportive measures if the complaint was dismissed because the complainant voluntarily withdrew any or all of the allegations in the complaint and the district determined that without the withdrawn allegations the conduct, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX, or if the complaint was dismissed because the district determined, after taking reasonable efforts to clarify the allegations of the complaint, that the alleged conduct would not constitute sex discrimination, including sex-based harassment, even if proven. The Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not constitute sexual harassment as defined in 34 CFR 106.30continue or recur within the district's education program or activity. (34 CFR 106.45)**

**If a complaint is dismissed, the conduct may still be addressed pursuant to BP/ARBoard Policy/Administrative Regulation 1312.3 - Uniform Complaint Procedures as applicable.**

#### **Informal Resolution Process**

**When a formal complaint of sexual harassment is filed, the district may offer At any time prior to determining whether sex discrimination, including sex-based harassment, occurred under the complaint procedures specified in 34 CFR 106.45, the district may offer, if it is determined to be appropriate upon receiving information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. to the complainant and respondent. However, the district shall not offer an informal resolution process if the complaint alleges that an employee engaged in sex-based harassment of an elementary or secondary school student or that such process would conflict with federal, state, or local law. (34 CFR 106.44)**

**The district shall not require or pressure a party to participate in the informal resolution process, or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)determination of a complaint as a condition of participation in the district's education program or activity, or exercise of any other right. The district may decline to offer an informal resolution process including, but not limited to, when the district determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44)**

**The district may facilitate an informal resolution process provided that the district, prior to initiating such process: (34 CFR 106.45)1.44)**

- 1. Provides the parties with written notice disclosing the allegations; the requirements of the informal resolution process; the right to withdraw from the informal process and resume the formal complaint process; and any consequences resulting; the inability to initiate or resume complaint procedures arising from participating in the same allegations once the informal resolution process is concluded; the potential terms that may be requested or offered in an informal resolution agreement, including that records the agreement would only be binding on the parties; and the information that the district will be maintained or maintain and whether and how the district could be shared. disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed**

2. Obtains the parties' voluntary, written consent to the informal resolution process
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

### Formal Complaint Process

If a formal complaint is filed, ~~the~~**The Title IX Coordinator or designee shall ensure that the facilitator of the informal resolution process is not the same person as the investigator or decisionmaker of any ongoing or newly initiated complaint process specified in 34 CFR 106.45, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and receives training in accordance with 34 CFR 106.8. (34 CFR 106.44)**

**If the district facilitates an informal resolution process, the Title IX Coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district' education program or activity. (34 CFR 106.45)**

### Notice of Allegations

**If the district initiates a formal Title IX investigation, the Title IX Coordinator or designee shall provide the known parties with written notice of the following: (34 CFR 106.45)**

1. The district's complaint process, including any informal resolution process
2. ~~The allegations potentially constituting sexual harassment with sufficient details known~~ **Sufficient information, available** at the time, ~~including~~**to allow parties to respond to the allegations, including, to the extent available,** the identity of parties involved in the incident ~~if known,~~**(s),** the conduct allegedly constituting ~~sexual~~**sex discrimination, including sex-based** harassment, and the date**(s)** and location**(s)** of the alleged incident ~~if known.~~

Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, ~~the district investigates~~**new Title IX** allegations **arise** about the **complainant** or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. **A statement that retaliation is prohibited**
4. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process ~~The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence~~
5. ~~The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process~~ **The an accurate description of such evidence, as specified**

~~The~~**above notice shall** ~~may~~ also include the name of the investigator, facilitator of an informal process, and decision-maker ~~decisionmaker~~ and shall provide ~~either~~**inform the parties that, if at any time a party with no less than three calendar days to raise** ~~has~~ concerns of ~~regarding~~ conflict of interest or bias regarding any of these persons, **the party should immediately notify the Title IX Coordinator or designee.**

### Consolidation of Complaints

**The district may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent; by more than one complainant against one or more respondents; or by one party against another party, when the allegations of sex discrimination, including sex-based harassment, arise out of the same facts or circumstances. (34 CFR 106.45)**

## Investigation Procedures

The district shall provide for adequate, reliable, and impartial investigation of complaints. (34 CFR 106.45)

During the investigation process, the district ~~district's designated investigator~~ shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, ~~including fact and expert~~**fact** witnesses, and other inculpatory and exculpatory evidence **that is relevant and not otherwise impermissible**
2. **Review all evidence gathered through the investigation and determine which evidence is relevant and which evidence is impermissible regardless of relevance**
3. ~~Not~~**Provide each party with an equal opportunity to access evidence that is relevant, and not otherwise impermissible, to the allegations of sex discrimination, including sex-based harassment, by:**

- a. **Providing an equal opportunity to access either the relevant and not otherwise impermissible evidence or an accurate description of such evidence**

**If an accurate description is provided, the district shall, upon request of any party, provide the parties with an equal opportunity to access the relevant and permissible evidence.**

- b. **Providing a reasonable opportunity to respond to the evidence or to the accurate description of the evidence**

- c. **Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures**

4. **Take reasonable steps to protect the privacy of parties and witnesses which do not** restrict the ability of either party to discuss the allegations under investigation or to gather **the parties to obtain** and present relevant evidence

~~3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney~~

~~4. Not limit the choice or presence of an advisor for either the complainant or respondent **evidence, including, by speaking to witnesses; consulting with family members, confidential resources, or advisors; or otherwise preparing for or participating** in any meeting or ~~the~~ grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties~~

~~5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate~~

~~6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report~~

### ~~7. procedures~~

5. Objectively evaluate all **evidence that is relevant evidence and not otherwise impermissible**, including both inculpatory and exculpatory evidence, and determine **including that** credibility in a manner that **is determinations will not be** based on a person's status as a complainant, respondent, or witness

~~8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an~~

electronic format or a hard copy, for their review and written response

9. After sending the investigative report to the parties and before reaching a determination regarding responsibility, afford each party the opportunity to submit written, relevant questions that the party wants asked of any

6. **Exclude as impermissible the following types of evidence, and questions seeking that evidence:**

a. **Evidence that is protected under a privilege recognized by state or federal law or evidence that is provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege**

b. **A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party**

**Questions and unless the district obtains that party's or witness's voluntary, written consent for use in its grievance procedures**

c. **Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless** evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are **prior sexual conduct is** offered to prove that someone other than the respondent committed the **alleged** conduct alleged by the complainant or if the questions and **is** evidence concern **about** specific incidents of the complainant's prior sexual behavior **conduct** with respect to the respondent and are **that is** offered to prove consent. **Privacy rights to the alleged sex-based harassment**

**The fact of all parties prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the complaint alleged sex-based harassment or preclude determination that sex-based harassment occurred.**

**The district shall be maintained ensure that the decisionmaker is able to question parties and witnesses adequately to assess a party's or witness's credibility to the extent credibility is both** in accordance with applicable state and federal laws. **dispute and relevant to evaluating one or more allegations of sex-based harassment. (34 CFR 106.45)**

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

### **Written Decision**

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 45 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the district shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision;



including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process

3. Findings of fact supporting the determination

4. Conclusions regarding the application of the district's code of conduct to the facts

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant

6. The district's procedures and permissible bases for the complainant and respondent to appeal

### **Appeals**

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties

2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator

3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

4. Issue a written decision describing the result of the appeal and the rationale for the result

5. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

**The investigator shall complete the investigation within 60 days after the Title IX Coordinator determines to proceed with an investigation, unless such timeline is extended in accordance with this administrative regulation.**

### **Written Decision**

**The Superintendent shall designate an employee as the decisionmaker to determine responsibility for the alleged conduct, who may be the Title IX Coordinator or designee or the investigator so long as there is no conflict of interest or bias. (34 CFR 106.45)**

**Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall: (34 CFR 106.45)**

1. **Use the preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has occurred**

2. **Notify the parties in writing of the determination of whether sex discrimination, including sex-based harassment, occurred**

**The notification shall include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.**

**The written decision shall be issued within 45 days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.**

## Appeal of the Decision

**Either party may appeal the district's decision of a complaint or any allegation in the complaint. (34 CFR 106.45)**

**When conducting an appeal, the district shall permit a final appeal to the Governing Board using a process that is in accordance with law and otherwise consistent with the appeal process as specified in Administrative Regulation 1312.3 - Uniform Complaint Procedures.**

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights:

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

## Remedies

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. **within 180 days of the date of the most recently alleged misconduct.**

**The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.**

## Extension of Timelines

**Any timelines specified in this administrative regulation may be extended by the district for good cause, with written notice to the parties. The written notice shall specify the reasons for the extension. (34 CFR 106.45)**

## Remedies

**When there is a determination that sex discrimination, including sex-based harassment, has occurred, the Title IX Coordinator shall coordinate the provision and implementation of remedies to the complainant and other persons the district identifies as having had equal access to the district's education program or activity limited or denied by sex discrimination, including sex-based harassment; coordinate the imposition of any disciplinary sanctions on a respondent described in "Disciplinary Actions" below, including notification to the complainant of any such disciplinary actions; and take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)**

## Corrective/Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44, **106.45**)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

Other actions that may be taken with a student who is determined to be responsible for **sexual discrimination and/or sex-based** harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others

4. Positive behavior support
5. Referral of the student to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

When an employee is found to have committed ~~sexual~~**sex discrimination, including sex-based** harassment, or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

**The district shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the district's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)**

### Record-Keeping

The Superintendent or designee shall maintain, for **at least** a period of seven years a record of all reported cases and Title IX investigations: **(34 CFR 106.45)**

1. **For each complaint of sexual sex discrimination, including sex-based** harassment, **records documenting any determinations informal resolution process or formal investigation procedures**
2. **For each notification the Title IX Coordinator or designee receives** of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided **information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, records documenting the actions taken** to the complainant, any appeal or informal resolution and the results therefrom, and responses made pursuant to **fulfill the district's obligations as specified in** 34 CFR 106.44: **(34 CFR 106.45)**

The Superintendent or designee shall also maintain for a period of seven years all, **including supportive measures offered and implemented**

3. **All materials used to train district employees; the Title IX Coordinator; and designee(s); investigator(s), decision-maker(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process.**

The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public. **(34 CFR 106.45)**

**For complaints containing allegations of childhood sexual assault, the Superintendent or designee shall also indefinitely maintain the following: (Code of Civil Procedure 340.1):**

1. **A record of the allegation(s)**
2. **A record of the investigation procedures followed**
3. **A record of the written determination**
4. **A record of the corrective action implemented, if any**
5. **A record of any appeals and the outcome of the same**
6. **All training materials addressing the prohibition and investigation of childhood sexual assault**

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**Policy Reference Disclaimer:** These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

### State References

5 CCR 4600-4670

5 CCR 4900-4965

Civ. Code 1714.1

Civ. Code 51.9

Ed. Code 200-270

Ed. Code 48900

Ed. Code 48900.2

Ed. Code 48985

Gov. Code 12950.1

### Federal References

20 USC 1092

20 USC 1221

20 USC 1232g

20 USC 1681-1688

34 CFR 106.1-106.82

34 CFR 99.1-99.67

34 USC 12291

42 USC 1983

42 USC 2000d-2000d-7

42 USC 2000e-2000e-17

U.S. DOJ, FBI Publication

### Management Resources References

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

CSBA Publication

CSBA Publication

Federal Register

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

### Description

Uniform complaint procedures

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

[Liability of parent or guardian for act of willful misconduct by a minor](#)

[Liability for sexual harassment; business, service and professional relationships](#)

[Prohibition of discrimination](#)

[Grounds for suspension or expulsion](#)

[Additional grounds for suspension or expulsion; sexual harassment](#)

[Notices to parents in language other than English](#)

[Sexual harassment training](#)

### Description

Definition of sexual assault

Application of laws

Family Educational Rights and Privacy Act (FERPA) of 1974

Title IX of the Education Amendments of 1972; discrimination based on sex

Nondiscrimination on the basis of sex in education programs

Family Educational Rights and Privacy

Definition of dating violence, domestic violence, and stalking

Civil action for deprivation of rights

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended

[National Incident-Based Reporting System](#)

### Description

Davis v. Monroe County Board of Education (1999) 526 U.S. 629

Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447

Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473

Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736

Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130

[Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014](#)

[Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011](#)

[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)

[Sexual Harassment: It's Not Academic, September 2008](#)

[Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001](#)

**Management Resources References**

U.S. DOE, Office for Civil Rights Publication

Website

Website

Website

Website

Website

**Description**

[Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016](#)

[U.S. Department of Justice, Federal Bureau of Investigation](#)

[CSBA District and County Office of Education Legal Services](#)

[California Department of Education](#)

[CSBA](#)

[U.S. Department of Education, Office for Civil Rights](#)

**Cross References**

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[Nondiscrimination In District Programs And Activities](#)

1312.3

[Uniform Complaint Procedures](#)

1312.3

[Uniform Complaint Procedures](#)

1312.3-E PDF(1)

[Uniform Complaint Procedures](#)

1312.3-E PDF(2)

[Uniform Complaint Procedures](#)

1313

[Civility](#)

3552

[Summer Meal Program](#)

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[Summer Meal Program](#)

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[District Records](#)

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[District Records](#)

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[Nondiscrimination In Employment](#)

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[Nondiscrimination In Employment](#)

4117.7

[Employment Status Reports](#)

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[Dismissal/Suspension/Disciplinary Action](#)

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[Dismissal/Suspension/Disciplinary Action](#)

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[Sex Discrimination and Sex-Based Harassment](#)

4119.11

[Sex Discrimination and Sex-Based Harassment](#)

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[Staff Development](#)

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[Dismissal/Suspension/Disciplinary Action](#)

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[Dismissal/Suspension/Disciplinary Action](#)

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[Sex Discrimination and Sex-Based Harassment](#)

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[Sex Discrimination and Sex-Based Harassment](#)

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[Sex Discrimination and Sex-Based Harassment](#)

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[Sex Discrimination and Sex-Based Harassment](#)

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[Student Wellness](#)

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[Child Abuse Prevention And Reporting](#)

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[Child Abuse Prevention And Reporting](#)

5141.52

[Suicide Prevention](#)

5141.52

[Suicide Prevention](#)

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[Discipline](#)

5144

[Discipline](#)

5144.1

[Suspension And Expulsion/Due Process](#)

**Cross References**

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**Description**[Suspension And Expulsion/Due Process](#)[Nondiscrimination/Harassment](#)[Nondiscrimination/Harassment](#)[Sex Discrimination and Sex-Based Harassment](#)[Sex Discrimination and Sex-Based Harassment](#)[Hate-Motivated Behavior](#)[Married/Pregnant/Parenting Students](#)[Extracurricular And Cocurricular Activities](#)[Extracurricular And Cocurricular Activities](#)[Individualized Education Program](#)[Individualized Education Program](#)[Student Success Teams](#)[Student Success Teams](#)[Identification And Education Under Section 504](#)[Identification And Education Under Section 504](#)