

**CLOVIS UNIFIED
SCHOOL DISTRICT**

AR 4119.12B, 4219.12B, 4319.12B

PERSONNEL

Certificated, Classified, Administrative and Supervisory

TITLE IX SEX DISCRIMINATION COMPLAINT PROCEDURES

AR 5145.71B

STUDENTS

Rights and Responsibilities

TITLE IX SEX DISCRIMINATION COMPLAINT PROCEDURES

The District does not discriminate on the basis of sex in any of its programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations, 34 C.F.R. Part 106, (Title IX Regulations). The District is committed to maintaining an educational and workplace environment free from sex discrimination.

The complaint procedures set forth in this administrative regulation shall be used to address any complaint of Title IX Sex Discrimination, as defined in Paragraph A below, that occurred or is alleged to have occurred on or after August 1, 2024 in a District education program or activity. These complaint procedures provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the District's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX and the Title IX Regulations. (34 CFR 106.8(b)) Should the Title IX Regulations be modified or repealed, the District will implement only the aspects of these procedures required by law.

For sexual harassment under Title IX that occurred or is alleged to have occurred before August 1, 2024 in a District education program or activity, the complaint procedures set forth in Administrative Regulation No. 4119.12A, 4219.12A, 4319.12A/5145.71A shall be used.

Reports of sex discrimination not covered by the definition of Title IX Sex Discrimination will be addressed, as applicable, in accordance with Administrative Regulation No. 4030 - Nondiscrimination in Employment or Administrative Regulation No. 1312.3 - Uniform Complaint Procedures.

A. TITLE IX SEX DISCRIMINATION PROHIBITED

Sex discrimination, as defined in the Title IX Regulations (Title IX Sex Discrimination), is prohibited in District education programs and activities. Title IX Sex Discrimination is conduct on the basis of sex in an education program or activity, including pregnancy or related conditions, other discrimination based on sex as provided in the Title IX Regulations, and the following: (34 CFR 106.2)

1. Quid Pro Quo Harassment: A District employee, agent, or other person authorized by the

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District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditioning the provision of a District aid, benefit, or service on a person's participation in unwelcome sexual conduct.

2. 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, and objectively offensive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity.
3. Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation
4. Dating Violence: Violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
5. Domestic Violence: Felony or misdemeanor crimes committed by a person who: (a) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the State of California or a person similarly situated to a spouse of the victim; (b) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (c) shares a child in common with the victim; or (d) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the State of California.
6. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person's safety or the safety of others; or (b) suffer substantial emotional distress.

B. TITLE IX COORDINATORS

The District's designated Title IX Coordinators are:

Title IX Coordinator – Human Resources

Shareen Crosby

Risk and Benefits Manager

1450 Herndon Avenue

Clovis, California 93611

Phone: (559) 327-9380

Email: ShareenCrosby@cusd.com

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Title IX Coordinator – Students

Russ Harding
Student Services and School Attendance Assistant Director
1465 David E. Cook Way
Clovis, California 93611
Phone: (559) 327-9200
Email: RussHarding@cusd.com

Title IX Coordinator – Athletics/Sports

Steve France
Assistant Superintendent of Educational Services
1450 Herndon Avenue
Clovis, California 93611
Phone: (559) 327-9380
Email: SteveFrance@cusd.com

The Title IX Coordinators are responsible for and authorized to coordinate the District's compliance of Title IX and the Title IX Regulations, including taking appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity. (34 CFR 106.8(a), 106.44(f), 106.45(d)) The Title IX Coordinator – Students shall retain ultimate oversight over those responsibilities and ensure the District's consistent compliance with Title IX and the Title IX Regulations. (34 CFR 106.8(a)) As appropriate, the Title IX Coordinators may delegate specific duties to one or more designees. (34 CFR 106.8(a))

C. PROCEDURES FOR REPORTING AND PROCESSING OF COMPLAINT OF TITLE IX SEX DISCRIMINATION

1. Basic Requirements

- a. Equitable Treatment. The District treats complainants and respondents engaging in the complaint process equitably. (34 CFR 106.44(f), 106.45(b)) A respondent is presumed not responsible for the alleged Title IX Sex Discrimination until a determination is made at the conclusion of the complaint procedures. (34 CFR 106.45(b))
- b. Definitions. The definitions stated below apply to the following terms used in this administrative regulation:
 - (1) Complaint: An oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination under Title IX. (34 CFR 106.2)
 - (2) Complainant: (a) a student or employee who is alleged to have been subjected to

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conduct that could constitute Title IX Sex Discrimination; or (b) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Title IX Sex Discrimination and who was participating or attempting to participate in the District's education program or activity at the time of the alleged Title IX Sex Discrimination. (34 CFR 106.2)

- (3) Consent: Positive cooperation in act or attitude pursuant to an exercise of free will. (Penal Code 261.6)
- (4) Day: Calendar day.
- (5) Education Program or Activity: All operations of the District. (34 CFR 106.2)
- (6) Party: A complainant or respondent. (34 CFR 106.2)
- (7) Respondent: A person who is alleged to have violated the District's prohibition on Title IX Sex Discrimination. (34 CFR 106.2)

Other terms used in this administrative regulation shall have the same meaning as set forth in 34 CFR 106.2)

- c. Major Stages and Timeframes. The District has established the following timeframes for the major stages of the complaint procedures: (34 CFR 106.45(b))

Stage	Timeframe
<u>Evaluation:</u> Decision whether to dismiss or investigate a complaint, or initiate the informal resolution process	Within 10 days of the date on which the District receives a complaint alleging conduct that would, if proven, constitute Title IX Sex Discrimination
<u>Informal Resolution:</u> Offer to resolve a complaint through informal resolution process in lieu of an investigation and determination	At any time prior to issuing a written determination regarding whether Title IX Sex Discrimination occurred
<u>Investigation and Determination:</u> Investigation and issuance of a written determination regarding whether Title IX Sex Discrimination occurred	Within 90 days of the date on which the District receives a complaint alleging conduct that would, if proven, constitute Title IX Sex Discrimination

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Stage	Timeframe
<p><u>Appeal</u>: Filing of appeal; consideration and issuance of decision regarding appeal</p>	<p>Any appeal by a complainant or respondent must be filed within 30 days of the date of the District's determination regarding Title IX Sex Discrimination or dismissal of the complaint</p> <p>Consideration and issuance of the District's decision on a timely filed appeal shall be within 30 days from the date the District receives the appeal</p>

- d. Extension of Timeframes. The above timeframes may be extended on a case-by-case basis by the Title IX Coordinator or designee for good cause with notice to the parties that includes the reasons for the delay. (34 CFR 106.45(b)) The time for completing the complaint process will be temporarily delayed during school recess exceeding three days; each such period to be excluded from the 90 days for the District to complete the investigation and issue the written determination. The timeframes may be extended by the Title IX Coordinator or designee for good cause with written notice to the complainant and respondent of the extension and the reason(s) for the extension. Good cause for an extension includes, but is not limited to, holidays or school recess exceeding three days; additional time that may be needed for the parties to engage in the informal resolution process; absence or illness of a party, witness, or party advisor; concurrent law enforcement activity; absence or illness of the Title IX Coordinator or designees, a designated investigator/decisionmaker, or a designated appeal officer.

- e. Conflict of Interest/Bias and Training. Anyone designated by the District as a Title IX Coordinator, investigator, decisionmaker, appeal officer, or informal resolution facilitator shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. (34 CFR 106.44(k), 106.45(b)) Moreover, each such designated position, other persons who are responsible for implementing the District's Title IX complaint procedures or have the authority to modify or terminate supportive measures, and all employees will receive training related to their duties in accordance with 34 CFR 106.8(d). (34 CFR 106.8(d))

- f. Students with Disabilities. If a complainant or respondent 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 (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education improvement Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, throughout

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the complaint procedures. (34 CFR 106.8(e))

2. Reporting and Processing of Reports of Title IX Sex Discrimination

- a. Report of Title IX Sex Discrimination. Anyone who believes they have experienced, witnessed, or received a report of Title IX Sex Discrimination is strongly encouraged to report the incident to the District's Title IX Coordinator, District administrator, or any District employee.
- b. Notification to Title IX Coordinator. District employees who are not confidential employees are required to notify the Title IX Coordinator when the employee has information about conduct that may reasonably constitute Title IX Sex Discrimination. (34 CFR 106.44(c)) This notification requirement does not apply to an employee who has personally been subject to conduct that reasonably may constitute Title IX Sex Discrimination. (34 CFR 106.44(c)) An employee who fails to promptly notify the Title IX Coordinator of conduct that may reasonably constitute Title IX Sex Discrimination may be disciplined, up to and including dismissal.
- c. Confidential Employees - Provision of Information. District employees who are designated as confidential employees for purposes of compliance with Title IX shall explain the following to any person who informs the confidential employee of conduct that reasonably may constitute Title IX Sex Discrimination: (34 CFR 106.44(d))
 - (1) The employee's status as confidential for purposes of Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute Title IX Sex Discrimination;
 - (2) How to contact the District's Title IX Coordinator and how to make a complaint of Title IX Sex Discrimination; and
 - (3) 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 complaint procedures.
- d. Actions by Title IX Coordinator or Designee. When notified of conduct that reasonably may constitute Title IX Sex Discrimination, the Title IX Coordinator or designee shall:
 - (1) Take actions to promptly and effectively end any Title IX Sex Discrimination in the District's education program or activity, prevent its occurrence, and remedy its effects. (34 CFR 106.44(f))

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- (2) Promptly notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the District's Title IX complaint procedures and, as appropriate, the informal resolution process. (34 CFR 106.44(f))
 - (3) If a complaint has been filed, notify the respondent of the District's Title IX complaint procedures and, as appropriate, the informal resolution process. (34 CFR 106.44(f))
- e. Party Advisors. Throughout the complaint procedures, the District shall not restrict the ability of the parties to consult with their family members, confidential resources, or advisor of their choice, who may be, but is not required to be, an attorney. (34 CFR 106.45(b)).

3. Supportive Measures

- a. Supportive Measures. Supportive measures are individualized measures offered as appropriate and as reasonably available, and without fee or charge to the complainant or the respondent. (34 CFR 106.2, 106.44(g)). Such supportive measures will be non-disciplinary, non-punitive, and designed to restore or preserve a party's access to the District's education program and activity without unreasonably burdening the other party, including measures designed to protect the safety of the parties or the District's educational environment or to provide support during the District's Title IX complaint procedures or during the informal resolution process. (34 CFR 106.2, 106.44(g))

Supportive measures are available to the parties as follows:

- (1) Complainant. Upon being notified of conduct that reasonably may constitute Title IX Sex Discrimination, the Title IX Coordinator or designee will promptly contact the complainant to offer and coordinate supportive measures, as appropriate, for the complainant. (34 CFR 106.44(f)) Supportive measures shall be provided to the complainant, as appropriate, where the District dismisses a complaint. (34 CFR 106.45(d)) For dismissals in which the respondent has been notified of the allegations, supportive measures shall be offered, as appropriate, to the respondent. (34 CFR 106.45(d))
 - (2) Respondent. If the District has initiated the complaint procedures or offered an informal resolution process, the Title IX Coordinator or designee shall offer and coordinate supportive measures, as appropriate, for respondent. (34 CFR 106.44(f))
- b. Offer and Coordination of Supportive Measures. The Title IX Coordinator or designee shall be responsible for offering, modifying, and terminating supportive measures to a party and to provide written notice thereof to the affected party. (34 CFR 106.44(g)) Supportive

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measures may vary depending on what the District deems to be reasonably available. (34 CFR 106.44(g)) Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other course-related adjustments; modifications in work, class, extracurricular, or any other activity, regardless of whether there is or is not a comparable alternative; campus escort services; restrictions on contact applied to one or more parties; leaves of absence; increased security and monitoring of certain areas of the campus, and training and education programs related to sex-based harassment. (34 CFR 106.44(g))

- c. Modification or Termination of Supportive Measures. The Title IX Coordinator or designee may, as appropriate, modify or terminate supportive measures at the conclusion of the complaint procedures or at the conclusion of the informal resolution process, or continue the supportive measures beyond that point. (34 CFR 106.44(g))

If a party wishes to modify or reverse the decision of the Title IX Coordinator or designee regarding supportive measures, the party shall submit a written request to the Associate Superintendent of School Leadership or designee within seven days of the challenged decision, stating, at a minimum, the applicable supportive measure and the reasons for the requested modification or reversal. (34 CFR 106.44(g)) A party may seek additional modification or termination of a supportive measure applicable to the party if circumstances change materially by submitting a written request to the Title IX Coordinator or designee. (34 CFR 106.44(g))

- d. Students with Disabilities. If the complainant or respondent is a student with a disability, the Title IX Coordinator shall consult with one or more members, as appropriate, of the student's individualized education program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Improvement Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures. (34 CFR 106.44(g))
- e. Disclosure of Supportive Measures. The District will 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 District's education program or activity, or when an exception in 34 CFR 106.44(j)(1) through (5) applies. (34 CFR 106.44(g))

4. Administrative Leave and Emergency Removal

- a. Employee. If a District employee is a respondent, the employee may be placed on administrative leave from employment responsibilities during the pendency of the Title IX complaint procedures. (34 CFR 106.44(i))

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- b. Student. The District may remove a student from the District's education program or activity on an emergency basis, provided that the District conducts an individualized safety and risk analysis, determines that removal is justified due to an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of Title IX Sex Discrimination, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. (34 CFR 106.44(h)) This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Improvement Act (20 U.S.C. § 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), or the Americans with Disabilities Act of 1990 (42 U.S.C § 12101 et seq.). (34 CFR 106.44(h))

5. Informal Resolution

The District encourages the reporting of conduct that may constitute Title IX Sex Discrimination so that the District may promptly take actions to ensure that such conduct does not continue or recur and that the concerns and complaints are resolved at the earliest opportunity.

- a. Informal Resolution Facilitator. The Title IX Coordinator or designee shall serve as the informal resolution facilitator and shall facilitate the informal resolution process. (34 CFR 106.44(d)) The informal resolution facilitator must not be the same person as the investigator or the decisionmaker in the District's complaint procedures. (34 CFR 106.44(d)) The informal resolution facilitator must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and must receive training under 34 CFR § 106.8(d)(3). (34 CFR 106.44(k))
- b. Offer and Participation in Informal Resolution Process

At any time prior to issuing a written determination regarding whether Title IX Sex Discrimination occurred, the District may offer to a complainant and a respondent an informal resolution process. (34 CFR 106.44(k)) The District has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Title IX Sex Discrimination or when a complaint of Title IX Sex Discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes. (34 CFR 106.44(k)) The informal resolution process shall be in lieu of resolving a complaint through the District's complaint procedures as set forth in this administrative regulation. (34 CFR 106.45(k))

The informal resolution process is not available to facilitate an informal resolution to resolve allegations that an employee engaged in sex-based harassment of a student or when such a process would conflict with federal, state, or local law. (34 CFR 106.44(k)) Moreover, the District may decline to allow informal resolution when it determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44(k))

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The District shall not require or pressure the parties to participate in an informal resolution process. (34 CFR 106.44(k)) The District must obtain the parties' voluntary consent to the informal resolution process and must not require 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. (34 CFR 106.44(k))

c. Notice Prior to Initiation of Informal Resolution Process

Prior to initiation of an informal resolution process, the Title IX Coordinator or designee shall provide to the parties notice that explains: (34 CFR 106.44(k))

- (1) The allegations;
 - (2) The requirements of the informal resolution process;
 - (3) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and initiate the complaint procedures;
 - (4) That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming the complaint procedures arising from the same allegations;
 - (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
 - (6) What information the District will maintain and whether and how the District could disclose such information for use in the complaint procedures if the complaint procedures are initiated or resumed.
- d. Informal Resolution Agreement. If the parties agree to an informal resolution at the conclusion of the informal resolution process, the parties shall execute an informal resolution agreement. Potential terms that may, as appropriate, be included in an informal resolution agreement include but are not limited to: (34 CFR 106.44(k))

- (1) Restrictions on contact; and
- (2) Restrictions on the respondent's participation in one or more of the District's programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the District's complaint procedures that Title IX Sex Discrimination occurred.

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- a. Persons Who May File Complaint. The following persons have a right to make a complaint of Title IX Sex Discrimination, including complaints of sex-based harassment, requesting that the District investigate and make a determination about alleged Title IX Sex Discrimination: (34 CFR 106.45(a))
- (1) A complainant;
 - (2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
 - (3) The Title IX Coordinator, after making the determination specified in 34 CFR § 106.44(f)(1)(v);
 - (4) With respect to complaints of Title IX Sex Discrimination other than sex-based harassment, in addition to the persons listed in paragraphs a1. through a3. above, the following persons may make a complaint: (a) any student or employee; or (b) any person other than a student or employee who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged Title IX Sex Discrimination.

At the time of the occurrence of the alleged Title IX Sex Discrimination, a complainant must be a student, employee, or other individuals who are participating in or attempting to participate in the District's education program or activity, alleging Title IX Sex Discrimination occurring under the District's education program or activity in the United States. (34 CFR 106.8(b), 106.11) 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. (34 CFR 106.11) A complaint alleging sex-based hostile environment under the District's education program or activity may include some conduct alleged to be contributing to the hostile environment that occurred outside the District's education program or activity or outside the United States. (34 CFR 106.11)

- b. Making of Complaint by Title IX Coordinator or Designee. If the alleged victim chooses not to file a complaint, the Title IX Coordinator or designee may make a complaint, after making a fact-specific determination based on the factors in 34 CFR 106.44(f)(1)(v) and other relevant factors, that the conduct, as alleged, presents an imminent and serious threat to the health and safety of the complainant or other person, or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint. (34 CFR 106.44(f)) In such a case, the Title IX Coordinator or designee is not a party to the complaint. Before making the complaint, the Title IX Coordinator or designee shall notify the complainant and appropriately address reasonable concerns about the complainant's safety or the safety of

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others, including by providing supportive measures (34 CFR 106.44(f))

7. Dismissal of Complaint

a. Grounds for Dismissal of Complaint. The Title IX Coordinator or designee may dismiss a complaint for any of the following reasons:

- (1) The District is unable to identify the respondent after taking reasonable steps to do so. (34 CFR 106.45(d))
- (2) The respondent is not participating in the District's education program or activity or is not employed by the District. (34 CFR 106.45(d))
- (3) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint under § 106.44(f)(1)(v), and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Title IX Sex Discrimination even if proven. (34 CFR 106.45(d))
- (4) The Title IX Coordinator or designee determines the conduct alleged in the complaint, even if proven, would not constitute Title IX Sex Discrimination. (34 CFR 106.44(f), 106.45(d)) Prior to dismissing the complaint on this basis, the Title IX Coordinator or designee shall make reasonable efforts to clarify the allegations with the complainant. (106.45(d))
- (5) The alleged conduct did not occur under the District's education program or activity in the United States. (34 CFR 106.2, 106.11)

The alleged conduct may be addressed pursuant to the District's other complaint procedures, including, but not limited to, Board Policy and Administrative Regulation No. 1312.3 - Uniform Complaint Procedure or Board Policy and Administrative Regulation No. 4030 - Nondiscrimination in Employment, as applicable.

b. Notice of Dismissal and Right to Appeal. Upon dismissal, the Title IX Coordinator or designee will promptly notify the complainant of the basis for the dismissal. (34 CFR 106.45(d)) If the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator or designee shall also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing. (34 CFR 106.45(d)) The dismissal notice shall also inform the parties of their right to appeal the dismissal of the complaint in accordance with the appeal procedures described below. (34 CFR 106.45(b)(3))

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The District may consolidate complaints of Title IX Sex Discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of Title IX Sex Discrimination arise out of the same facts or circumstances. (34 CFR 106.45(e))

9. Notice of Allegations of the Complaint

Upon initiation of the complaint procedures, the Title IX Coordinator or designee shall provide notice of the allegations to the parties whose identities are known. (34 CFR 106.45(c))

The notice of allegations shall include the following:

- a. The complaint procedures set forth in this administrative regulation, including the informal resolution process. (34 CFR 106.45(c))
- b. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Title IX Sex Discrimination, and the date(s) and location(s) of the alleged incident(s), to the extent that the information is available to the District. (34 CFR 106.45(c))

During an investigation, if the District decides to investigate additional Title IX Sex Discrimination allegations by the respondent toward the complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, the Title IX Coordinator or designee shall provide notice of the additional allegations to the parties whose identities are known. (34 CFR 106.45(c))

- c. A statement that retaliation is prohibited. (34 CFR 106.45(c))
- d. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. (34 CFR 1604.45(c)) If a description of the evidence is provided, the parties shall be informed that they are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party. (34 CFR 106.45(c))

10. Investigation and Determination of Complaint of Alleged Title IX Sex Discrimination

In response to a complaint, the Title IX Coordinator or designee shall, as appropriate, initiate the informal resolution process set forth above or the investigation procedures as set forth below. (34 CFR 106.44(f)) If the informal resolution process has already been previously offered to and declined by one or both parties or the Title IX Coordinator or designee has

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determined that the informal resolution process is not appropriate, the complaint shall be investigated pursuant to the procedures stated below in this Section.

a. Designated Investigator/Decisionmaker

The District shall designate an investigator to investigate the allegations of a complaint, including gathering and reviewing relevant records and interviewing the parties and witnesses. (34 CFR 106.45(g)) The designated investigator shall also be the decisionmaker responsible for issuing a written determination regarding whether Title IX Sex Discrimination occurred.

b. Investigative Interviews and Evidence Gathering.

1. The burden is on the District to conduct an investigation that gathers sufficient evidence to determine whether Title IX Sex Discrimination occurred. (34 CFR 106.45(f))
2. During the investigation process, the District's designated investigator/decisionmaker shall:
 - (a) Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. (34 CFR 106.45(f))
 - (b) Provide an equal opportunity for the parties to access either the relevant and not otherwise impermissible evidence or an accurate description of this evidence. (34 CFR 106.45(f)) If the District provides a description of the evidence, the parties shall be provided with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of a party. (34 CFR 106.45(f)) The parties shall also be provided with a reasonable opportunity to respond to the evidence or to the accurate description of the evidence. (34 CFR 106.45(f))
 - (c) Notify each party and witness of the date, time, and location of his/her interview, with sufficient time for the party or witness to prepare for the interview. A family member or an advisor may be present during a party's or a witness' interview but shall not respond to or ask questions of the party or witness. An advisor may, but is not required to, be an attorney.
 - (d) Take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the complaint procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of Title IX Sex Discrimination are authorized. (34 CFR 106.45(f))

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- (e) Not restrict the ability of either party to obtain and present relevant evidence. (34 CFR 106.45(b))

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

c. Review and Evaluation of Evidence

The designated investigator/decisionmaker shall:

- (1) Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. (34 CFR 106.45(f)) Evidence is relevant if it is related to the allegations of Title IX Sex Discrimination under investigation and may aid the investigator/decisionmaker in determining whether the alleged Title IX Sex Discrimination occurred. (34 CFR 106.2)
- (2) Evaluate objectively all relevant evidence and not otherwise impermissible evidence, including both inculpatory and exculpatory evidence and make credibility determinations that are not based on a person's status as a complainant, respondent, or witness. (34 CFR 106.45(b))

The following types of evidence, and questions seeking that evidence, are impermissible and shall be excluded regardless of whether they are relevant: (34 CFR 106.45(b))

- (a) Evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- (b) A party or witness' 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, unless the party or witness provides voluntary, written consent for use of the records in the complaint procedures.
- (c) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the

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complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

11. Determination Whether Title IX Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the designated investigator/decisionmaker shall: (34 CFR 106.45(h))

- a. Use the preponderance of the evidence standard of proof to determine whether Title IX Sex Discrimination occurred. The decisionmaker shall evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the decisionmaker is not persuaded under the preponderance of the evidence standard by the evidence that Title IX Sex Discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Title IX Sex Discrimination occurred.
- b. Notify the parties in writing of the determination whether Title IX Sex Discrimination, including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

The written determination shall be issued within 90 days of the District's receipt of the formal complaint filed by a complainant or the date the Title IX Coordinator makes a formal complaint on behalf of a complainant, subject to extension as provided in this administrative regulation.

12. Appeal of Determination of Title IX Sex Discrimination or Dismissal of Complaint**a. Right and Deadline to Appeal**

A party may appeal the District's determination or dismissal of a complaint. (34 CFR 106.45(d)) An appeal must be in writing and filed with the Title IX Coordinator within 30 days of the date of the District's written determination or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Any appeal that is submitted after the 30-day deadline is not timely and will not be considered by the District's appeal officer.

b. Grounds for Appeal

An appeal shall be on one or more of the following bases: (34 CFR 106.45(d), 106.46(i))

- (1) A procedural irregularity that would change the outcome,

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- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether Title IX Sex Discrimination occurred or dismissal was made, or
 - (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainant generally or respondents generally or the individual complainant or respondent that would change the outcome.
- c. Appeal Officer. The District shall designate an appeal officer to consider and issue a decision regarding the appeal. The appeal officer shall not have taken part in the investigation or dismissal of the complaint that is the subject of the appeal. (34 CFR 106.45(d)) The appeal officer shall be trained in accordance with 34 CFR 106.8(d)(2). (34 CFR 106.45(d))
- d. Processing of Appeal.
- (1) Notice Regarding Appeal. If an appeal is timely filed, the appeal officer shall notify the parties in writing when the appeal is filed, including notice of the allegations of the complaint if notice was not previously provided to the respondent. (34 CFR 106.45(d))
 - (2) Statement Supporting or Challenging Outcome. Within 10 days of the date of the District's notice regarding the appeal, a party may submit to the appeal officer a written statement in support of or challenging the outcome of the investigator/decisionmaker's written determination regarding whether Title IX Sex Discrimination occurred. The appeal officer will not consider any statement that is not timely submitted.
 - (3) Appeal Decision. The appeal officer shall notify the parties of the result of the appeal and the rationale for the result within 30 days of the deadline for the parties to submit the statement in support of or challenging the outcome of the investigator/decisionmaker's written determination.
- e. U.S. Department of Education, Office of Civil Rights. Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the last act of Title IX Sex Discrimination.

13. Remedies and Disciplinary Sanctions

- a. The District shall comply with the complaint procedures set forth in this administrative regulation before imposing any disciplinary sanctions against a respondent. (34 CFR 106.45h)) The District shall not impose disciplinary sanctions on a respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the District's complaint procedures that the respondent engaged in prohibited Title IX Sex Discrimination. (34 CFR 106.2, 106.45(h)) Moreover, the District shall not discipline a

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party, witness, or others participating in the District's complaint procedures for making a false statement or for engaging in consensual sexual conduct based solely on the District's determination whether Title IX Sex Discrimination occurred. (34 CFR 106.45(h))

- b. When a determination has been made that Title IX Sex Discrimination has occurred, the District shall provide remedies to the complainant. (34 CFR 106.44(f)) Remedies will be designed to restore or preserve the complainant's access to the District's education program or activity. (34 CFR 106.2) The Title IX Coordinator or designee is responsible to coordinate the provision and implementation of remedies to a complainant and other persons the District identifies as having had equal access to the District's education program or activity limited or denied by Title IX Sex Discrimination. (34 CFR 106.45(h))
- (1) If there is a determination that a student has engaged in conduct that constitute Title IX Sex Discrimination, the student shall be disciplined as provided in the District's board policies and applicable law. (34 CFR 106.45(l))
- (2) If there is a determination that an employee engaged in conduct that constitute Title IX Sex Discrimination, the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with the District's board policies, applicable law, and applicable collective bargaining agreement. (34 CFR 106.45(l))

D. RETALIATION IS PROHIBITED

There shall be no retaliation (intimidation, threats, coercion, or discrimination), including peer retaliation, against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or the Title IX Regulations or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or the Title IX Regulations. (34 CFR 106.2, 106.45(c), 106.71)

Any complaint alleging retaliation shall be reported and processed in accordance with the complaint procedures in this administrative regulation. (34 CFR 106.71)

E. PRIVACY/CONFIDENTIALITY

During the pendency of the complaint procedures, the District shall take reasonable steps to protect the privacy of the parties and witnesses, provided that the steps do not restrict the parties' ability to obtain and present evidence subject to 34 CFR § 106.71 prohibiting retaliation; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the complaint procedures. (34 CFR 106.45(b))

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The District shall not disclose personally identifiable information obtained in the course of complying with the Title IX Regulations, except in the following circumstances: (34 CFR 106.44(j))

- a. When the District has obtained prior written consent from a person with the legal right to consent to the disclosure;
- b. 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;
- c. To carry out the purposes of the Title IX Regulations, including action taken to address conduct that reasonably may constitute Title IX Sex Discrimination in the District's education program or activity;
- d. As required by federal law or regulations, or the terms and conditions of a federal award, including a grant award or other funding agreement; or
- e. To the extent such disclosures are not otherwise in conflict with Title IX or the Title IX Regulations, when required by state or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

F. RECORDKEEPING

The Title IX Coordinator or designee shall maintain records of the following for a period of at least seven years: (34 CFR 106.8(f))

1. For each complaint of Title IX Sex Discrimination, records documenting the informal resolution process or the complaint procedures, and the resulting outcome.
2. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute Title IX Sex Discrimination, including notifications under 34 CFR 106.44(c)(1) or (2), records documenting the actions the District took to meet its obligations under 34 CFR 106.44.
3. All materials used to provide training under 34 CFR 106.8(d). The District shall make such training materials available upon request for inspection by members of the public.

Adopted: 08/01/2024

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

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48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48985 Notices, report, statements and records in primary language

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

12950.1 Sexual harassment training

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 34

12291 Definition of dating violence, domestic violence, and stalking

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.82 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

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

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

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

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

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