



**Superintendent Policy**  
**AR 4119.12**  
**Personnel**  
**September 20, 2024**

## **Title IX Sex Discrimination and Sex-Based Harassment Complaint** **Procedures**

The County Office of Education (“COE”) and County Superintendent of Schools (“Superintendent”) do not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX of the Education Amendments of 1972 (“Title IX”) and its regulations, including in employment.

The grievance procedures described in this regulation have been adopted by the Superintendent to provide for the prompt and equitable resolution of allegations that a COE employee, while participating in or attempting to participate in a COE education program or activity, was subjected to discrimination on the basis of sex, including but not limited to, sex-based harassment, retaliation, or other conduct prohibited by Title IX.

This regulation only applies to alleged incidents that occurred on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment that occurred prior to August 1, 2024, the procedures that applied at the time of the alleged incident should be used.

This regulation applies to any COE education program or activity, including but not limited to, events occurring on school property, during any school-related or school-sponsored activity, on school-sponsored transportation, and/or where the COE has disciplinary authority.

Allegations that a COE student was subjected to conduct prohibited by Title IX shall be addressed using the grievance procedures in Administrative Regulation (“AR”) 5145.71, as applicable.

### **Definitions**

*Complaint* means an oral or written request to the COE that objectively can be understood as a request for the COE to investigate and make a determination about alleged discrimination under Title IX or its regulations. (34 CFR 106.02)

*Complainant* means: (1) a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the COE’s education program or activity at the time of the alleged sex discrimination. (34 CFR 106.02)

*Party* means a complainant or respondent. (34 CFR 106.02)

*Peer retaliation* means retaliation by a student against another student. (34 CFR 106.02)

*Pregnancy or related conditions means:* (1) pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions. (34 CFR 106.02)

*Respondent* means a person who is alleged to have violated the COE's prohibition on sex discrimination. (34 CFR 106.02)

*Retaliation* means intimidation, threats, coercion, or discrimination against any person by the COE, the Superintendent, a student, or an employee or other person authorized by the COE to provide aid, benefit, or service under the COE's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its 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 this part, including in an informal resolution process, in grievance procedures, and in any other actions taken by the COE under 34 CFR 106.44 (f)(1). This provision does not limit the Superintendent's ability to require an employee to participate as a witness in, or otherwise assist with, a Title IX investigation or proceeding. (34 CFR 106.02)

*Sex discrimination* includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based harassment is a form of sex discrimination. (34 CFR 106.02, 106.10)

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is (34 CFR 106.02):

1. *Quid pro quo harassment.* An employee, agent, or other person authorized by the Superintendent to provide an aid, benefit, or service under the COE's education program or activity explicitly or impliedly conditioning the provision of such an 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 that it limits or denies a person's ability to participate in or benefit from the COE's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - i. The degree to which the conduct affected the complainant's ability to access the COE's education program or activity;



- ii. The type, frequency, and duration of the conduct;
  - iii. The parties' ages, roles within the COE's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - iv. The location of the conduct and the context in which the conduct occurred; and
  - v. Other sex-based harassment in the COE's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 34 CFR 106.2.

*Supportive measures* means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to (34 CFR 106.02):

1. Restore or preserve that party's access to the COE's education program or activity, including measures that are designed to protect the safety of the parties or the COE's educational environment; or
2. Provide support during the COE's grievance procedures or during an informal resolution process.

### **General Title IX Requirements**

When implementing the Superintendent's Title IX grievance procedures, the Title IX Coordinator shall ensure compliance with the following requirements (34 CFR 106.45, 106.44):

1. That Complainants and Respondents are treated equitably.
2. That the Title IX Coordinator, investigator, decisionmaker, appeal decisionmaker, and any facilitator of an informal resolution process do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Such persons shall also receive training in accordance with 34 CFR 106.8. A decisionmaker may be the same person as the Title IX Coordinator or investigator.
3. That the Respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of these grievance procedures.
4. That discipline is not imposed on a Respondent for sex discrimination prohibited by Title IX or its regulations unless there is a determination at the conclusion of these grievance procedures that the Respondent engaged in prohibited sex discrimination.

5. That reasonable steps are taken to protect the privacy of the parties and witnesses during the grievance procedures. These steps shall not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses (subject to the COE's prohibition on peer retaliation); consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.
6. That all relevant and permissible evidence – including both inculpatory and exculpatory evidence – is objectively evaluated and that credibility determinations are not based on a person's status as a Complainant, Respondent, or witness.
7. That all evidence considered impermissible or privileged under 34 CFR 106.45(b) is excluded.

The Superintendent prohibits retaliation against an individual for reporting suspected sex discrimination, making a Complaint, being a witness, or otherwise participating in a Title IX investigation or proceeding. Retaliation is illegal under federal and state nondiscrimination laws, prohibited by policy, and will result in disciplinary action.

The COE shall not disclose personally identifiable information obtained in the course of complying with Title IX regulations, except: (1) when the COE has obtained prior written consent from a person with the legal right to consent to the disclosure; (2) 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; (3) to carry out the purposes of the Title IX regulations, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the COE's education program or activity; (4) as required by federal law, federal regulations, or the terms and conditions of a federal award, including a grant award or other funding agreement; or (5) to the extent such disclosures are not otherwise in conflict with Title IX or its regulations, when required by state or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99. (34 CFR 106.44(j))

If the 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") 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.

### **Title IX Coordinator**

The Superintendent designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX. The Title IX Coordinator(s) may be contacted at:

Troy Cope, Title IX Coordinator  
400 Encinal Street, Santa Cruz, CA 95060  
Telephone: 831-466-5751  
Email: [tcope@santacruzcoe.org](mailto:tcope@santacruzcoe.org)

## **Duty to Report Prohibited Conduct**

An employee shall notify the Title IX Coordinator within one (1) workday when the employee has information about conduct that reasonably may constitute sex discrimination, including but not limited to sex-based harassment, under Title IX or its regulations. (34 CFR 106.44(c))

The Title IX Coordinator shall monitor the COE's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations and take steps reasonably calculated to address such barriers. (34 CFR 106.44(b))

When notified of conduct that reasonably may constitute sex discrimination under Title IX and its regulations, including but not limited to sex-based harassment, the Title IX coordinator shall (34 CFR 106.44(f)):

1. Contact the Complainant and/or the individual who reported the conduct to provide information regarding the COE's grievance procedures and any informal resolution process, if available and appropriate; offer supportive measures as appropriate; and determine how they wish to proceed; and
2. If a Complaint is made, notify the Respondent of the grievance procedures and any informal resolution process, if available and appropriate, and coordinate supportive measures, as appropriate, for the Respondent.

## **Complaints**

The following people have a right to make a Complaint of sex discrimination, including a Complaint of sex-based harassment, requesting that the COE investigate and make a determination about alleged discrimination under Title IX (34 CFR 106.45(a), 106.02):

1. A Complainant;
2. An authorized legal representative with the legal right to act on behalf of a Complainant;  
or
3. The Title IX Coordinator or designee.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a Complaint (34 CFR 106.45(a)):

1. Any student or employee; or

2. Any person other than a student or employee who was participating or attempting to participate in a COE education program or activity at the time of the alleged sex discrimination.

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination, shall determine whether to initiate a Complaint of sex discrimination. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors (34 CFR 106.44(f)):

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

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the COE 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))

If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator shall notify the Complainant of the Complaint prior to doing so, as well as provide other notices as required by the Title IX regulations at specific points in the grievance procedures, and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures. (34 CFR 106.44(f))



Regardless of whether a Complaint is initiated, the Title IX Coordinator shall take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that sex discrimination does not continue or recur within the COE's education program or activity. (34 CFR 106.44(f))

Complaints of sex discrimination may be consolidated when they arise out of the same facts or circumstances, including Complaints against more than one Respondent, Complaints by more than one Complainant, or Complaints by one party against another party. (34 CFR 106.45(e))

### **Initial Evaluation**

Upon receipt of a Complaint, the Title IX Coordinator or designee shall conduct a prompt initial evaluation to determine whether to dismiss or investigate a complaint, within the timeline specified in the section below titled "Timelines for Grievance Procedures."

The Title IX Coordinator or designee may dismiss a Complaint of sex discrimination if (34 CFR 106.45(d)):

1. The Title IX Coordinator is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in a COE education program or activity and is not employed by the Superintendent;
3. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The Title IX Coordinator or designee determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, the Title IX Coordinator or designee shall make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the Title IX Coordinator or designee shall promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then 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 Title IX Coordinator or designee shall notify the Complainant that a dismissal may be appealed and shall provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator or designee shall also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases (34 CFR 106.45(d)):

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
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 Title IX Coordinator or designee shall (34 CFR 106.45(d)):

1. Notify the parties of any appeal, including notice of the 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 34 CFR 106.8;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result.

When a Complaint is dismissed, the Title IX Coordinator or designee shall, at a minimum, undertake the following: (1) offer supportive measures to the Complainant as appropriate; (2) if the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and (3) take other prompt and effective steps, as appropriate, to ensure that sex discrimination does not continue or recur within a COE education program or activity. (34 CFR 106.45(d))

If a Complaint is dismissed, or in the absence of a Complaint, the conduct may still be addressed pursuant to other Superintendent policies or regulations where applicable, including but not limited to AR 4030.

If after an initial evaluation the Complaint is *not* dismissed, the Title IX Coordinator shall either initiate the grievance procedures or, if available and appropriate and requested by all the parties, an informal resolution process as specified in the section below titled “Informal Resolution.” (34 CFR 106.44(f))

### **Notice of Allegations**





Upon initiation of the Title IX grievance procedures, the Title IX Coordinator or designee shall notify the known parties in writing of the following (34 CFR 106.45(c)):

1. The Title IX grievance procedures and any informal resolution process;
2. 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 sex discrimination, and the date(s) and location(s) of the alleged incident(s);
3. A statement that retaliation is prohibited; and
4. 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. If a description of the evidence is provided, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, the Title IX Coordinator or designee decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the Title IX Coordinator or designee shall notify the known parties of the additional allegations. (34 CFR 106.45(c))

### **Investigation Procedures**

The Title IX Coordinator or designee shall designate an investigator and a decisionmaker to determine whether sex discrimination occurred. The investigator may be the same person as the decisionmaker. Neither the investigator nor the decisionmaker may have a conflict of interest or bias and both shall have received training in accordance with 34 CFR 106.8.

The designated investigator shall conduct an investigation that is adequate, reliable, and impartial by (34 CFR 106.45(b), (f)):

1. Ensuring that the burden is on the Superintendent's investigator – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
2. Ensuring that the parties have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
3. Reviewing all evidence gathered through the investigation and determining what evidence is relevant and what evidence is impermissible regardless of relevance.
4. Excluding the following types of evidence as impermissible, including questions seeking such evidence:



- a. Evidence that is protected under a privilege recognized by Federal or State law unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
  - 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, unless the COE obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
  - 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 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.
5. Providing each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, by:
- a. Providing an equal opportunity to access such evidence, or an accurate description of this evidence.  
  
If the parties are provided with a description of the evidence, the designated investigator shall, upon the request of any party, provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence.
  - b. Providing a reasonable opportunity to respond to the evidence or the accurate description of the evidence for a period of five (5) calendar days, unless such review period is voluntarily waived by both parties.
  - c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Employees are required to participate as a witness in, or otherwise assist with, an investigation under this regulation.

The investigator shall complete the investigation within the timeline specified in the section below titled "Timelines for Grievance Procedures."



At the completion of the investigation, the investigator shall provide to the parties an evidence review period as specified in the section below titled “Timelines for Grievance Procedures.”

### **Written Decision**

At the completion of the investigation, if the designated investigator is not the decisionmaker, the investigator shall provide all of the relevant and not otherwise impermissible evidence obtained in the investigation to the decisionmaker.

If credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination, the Superintendent must ensure that the decisionmaker is able to question parties and witnesses to adequately assess credibility. Credibility determinations shall not be based on a person’s status as a Complainant, Respondent, or witness. (34 CFR 106.45(b), (g))

The decisionmaker shall apply the preponderance of the evidence standard to make a determination as to whether sex discrimination occurred. If the decisionmaker is not persuaded under the preponderance of the evidence standard that sex discrimination occurred, the decisionmaker must not determine that sex discrimination occurred. (34 CFR 106.45(b), 106.45(h))

The decisionmaker shall notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal. (34 CFR 106.45(h))

The written decision shall be issued to the parties within the timeline specified in the section below titled “Timelines for Grievance Procedures.”

### **Appeals**

Either party may appeal the determination of a Complaint on one of the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; or
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.

An appeal must be made in writing to the Title IX Coordinator within five (5) days of the issuance of the written determination and must state the basis for the appeal.



Upon receipt of an appeal, the Title IX Coordinator shall promptly notify the other party of the appeal, and that other party shall have five (5) calendar days to respond to the request for an appeal.

The Superintendent or designee shall designate an appeal decisionmaker to hear the appeal. The appeal decisionmaker shall not have a conflict of interest or bias and shall not have been previously involved in the grievance procedures, including any informal resolution process, for the Complaint.

An appeal decision shall be issued in writing to both parties within the timeline specified in the section below titled “Timelines for Grievance Procedures.”

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 most recently alleged misconduct.

In addition to filing a sex discrimination or sex-based harassment complaint with the COE through the grievance procedures in this regulation, a person may file a complaint with either the California Civil Rights Department (“CRD”) or the Equal Employment Opportunity Commission (“EEOC”) as described in AR 4030.

### **Timelines for Grievance Procedures**

The Title IX grievance procedures shall be completed within the following timelines, unless extended as specified below, or as otherwise permitted by law:

1. The Title IX Coordinator shall make an initial evaluation to determine whether to dismiss or investigate a Complaint within seven (7) calendar days of receipt of a Complaint;
2. The investigation shall be completed within sixty (60) calendar days from receipt of the Complaint;
3. If the Superintendent offers an informal resolution process as provided under this regulation, and the parties voluntarily engage in such a process, the timelines otherwise provided in this regulation shall exclude the time spent in the informal resolution process;
4. At the completion of the investigation, the parties shall be provided with the evidence or an accurate description of the evidence, and a reasonable opportunity to respond to the evidence or the accurate description of the evidence, for a period of five (5) calendar days, unless such review period is voluntarily waived by both parties;
5. A written decision shall be sent to the parties within ten (10) calendar days of the completion of the evidence review period;
6. Any requests for an appeal shall be made within five (5) calendar days of the date the written decision is sent to the parties;

7. Any response from a party to the request for an appeal shall be submitted within five (5) calendar days after receiving notice of the appeal;
8. An appeal decision shall be issued within fifteen (15) calendar days of receipt of the request for an appeal.

Any timelines specified in this regulation may be subject to reasonable extensions on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. (34 CFR 106.45(b))

### **Supportive Measures**

When notified of conduct that reasonably may constitute sex discrimination under Title IX, the Title IX Coordinator or designee shall offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to COE education programs or activities or provide support during the Title IX grievance procedures or during an informal resolution process. Supportive measures may include: counseling; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in work, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment. (34 CFR 106.44(g))

If the 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 IEP team or 504 team, if any, to determine how to comply with the requirements of the IDEA and/or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44(g))

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the COE's educational environment, or to provide support during the COE's grievance procedures or during any informal resolution process. The Superintendent must not impose such measures for punitive or disciplinary reasons. (34 CFR 106.44(g))

A Complainant or Respondent shall be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in 34 CFR 106.2. A Complainant or Respondent shall also be provided with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. (34 CFR 106.44(g))

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



Information about any supportive measures shall not be disclosed to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in 34 CFR 106.44 applies. (34 CFR 106.44(g))

### **Emergency Removal from School**

Discipline shall not be imposed on a Respondent for sex discrimination prohibited by Title IX or its regulations unless there is a determination at the conclusion of these grievance procedures that the Respondent engaged in prohibited sex discrimination. However, the Superintendent may remove a student Respondent from the COE's education program or activity on an emergency basis, provided that the Superintendent or their designee undertakes an individualized safety and risk analysis, determines that 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 sex discrimination justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. A student with a disability may only be removed from school on an emergency basis in accordance with the IDEA and/or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44(h))

If an employee is the Respondent, the employee may be placed on administrative leave during the pendency of the grievance process where permitted by law and any applicable collective bargaining agreement.

### **Informal Resolution Process**

At any time prior to determining whether sex discrimination occurred under these procedures, the Superintendent may offer an informal resolution process to the parties if appropriate. However, the Superintendent shall not offer an informal resolution process for allegations that an employee engaged in sex-based harassment of a student. (34 CFR 106.44(k))

The Superintendent has discretion to determine whether it is appropriate to offer an informal resolution process to the parties when it receives information about conduct that reasonably may constitute sex discrimination or when a Complaint of sex discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes. Circumstances when the COE may decline to allow informal resolution include but are not limited to when the COE determines the alleged conduct would present a future risk of harm to others. (34 CFR 106.44(k))

The Superintendent shall not require or pressure the parties to participate in an informal resolution process. The Superintendent shall obtain the parties' voluntary consent to the informal resolution process and shall 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))



The facilitator for the informal resolution process shall not be the same person as the investigator or the decisionmaker in the grievance procedures. Any person designated by the Superintendent to facilitate 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. Any person facilitating informal resolution shall receive training under 34 CFR 106.8. (34 CFR 106.44(k))

Before initiation of an informal resolution process, the Superintendent must 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 to initiate or resume the grievance 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 grievance 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), which could include but are not limited to:
  - a. Restrictions on contact; and
  - b. Restrictions on the Respondent's participation in one or more of the COE's programs or activities or attendance at specific events, including restrictions the COE could have imposed as remedies or disciplinary sanctions had the COE determined at the conclusion of the grievance procedures that sex discrimination occurred.
6. What information the Superintendent shall maintain and whether and how the Superintendent could disclose such information for use in grievance procedures, if grievance procedures are initiated or resumed.

Any informal resolution agreement reached under this process shall not prevent or restrict the disclosure of factual information. (Civ. Proc. Code 1001)

If the Superintendent provides the parties with an informal resolution process, the Title IX Coordinator must, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the COE's education program or activity. (34 CFR 106.44(k))

## **Remedies**

If there is a determination that sex discrimination occurred, the Title IX Coordinator shall, as appropriate, coordinate the provision and implementation of remedies to a Complainant and other persons the Superintendent identifies as having had equal access to the COE's education program or activity limited or denied by sex discrimination; coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the COE's education program or activity. (34 CFR 106.45(h))

If there is a determination that sex-based harassment occurred, the Superintendent may provide remedies to the Complainant that include but are not limited to referral to counseling services, referral to an Employee Assistance Program, contact limitations between the parties, or adjustments to assignments and/or schedules.

## **Corrective/Disciplinary Actions**

When an employee is found to have committed prohibited sex discrimination or retaliation, the Superintendent shall take appropriate disciplinary action, up to and including dismissal.

The Superintendent may not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the COE's grievance procedures that the Respondent engaged in prohibited sex discrimination. (34 CFR 106.45(h))

The Superintendent 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 determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

## **Recordkeeping**

The Superintendent or designee shall maintain the following for at least a period of seven (7) years (34 CFR 106.8):

1. For each Complaint of sex discrimination, records documenting the informal resolution process (if any) or the grievance procedures and the resulting outcome;
2. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations, records documenting the actions the Superintendent took to meet its obligations under 34 CFR 106.44, including supportive measures offered and implemented; and
3. All materials used to provide training under 34 CFR 106.8. The Superintendent shall make these training materials available upon request for inspection by members of the public.





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

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; and
6. All training materials addressing the prohibition and investigation of childhood sexual assault.