

TITLE IX POLICIES AND PROCEDURES

CDHA is committed to providing a working and learning environment that is free from discrimination based on sex and/or gender, sexual harassment, and/or sexual violence. It is the policy of CDHA that this discrimination, harassment, and/or violence will not be tolerated.

Students, parents, and staff are encouraged to work together to prevent discrimination based on sex and/or gender, sexual harassment, and/or sexual violence and to report promptly any conduct that could constitute a violation of this policy. CDHA is committed to conducting prompt investigations of any allegations of discrimination, harassment, and/or sexual violence.

Title IX Regulation - What It Is

Title IX of the Education Amendments Act of 1972 is a federal law that states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Under Title IX, schools are legally required to respond and remedy hostile educational environments.

The U.S. Department of Education’s Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Although Title IX is best known for breaking down barriers in sports for women and girls, Title IX also addresses sexual harassment, sexual violence, and gender-based discrimination. Title IX requires schools to take prompt action upon receiving notice of a sexual assault or sexual harassment. A school based investigation is required, independent of law enforcement investigations. Title IX states that schools should establish standard procedures for handling complaints of sex-based discrimination, harassment, and sexual violence. Any person may file a Title IX complaint with the Title IX Coordinator or the Office for Civil Rights.

Title IX Jurisdiction - Standards and Limits

For a Title IX Inquiry or Investigation to apply - the incident must have occurred in an Educational Program or Activity and CDHA must have substantial control over both the respondent and the context in which the harassment occurred.

In addition, the unwelcome sexual harassment must also be considered severe, pervasive AND objectionably offensive or a single act of sexual assault, dating violence, domestic violence or stalking as defined by the Clery Act.

GRIEVANCE PROCEDURES

There are two options regarding Title IX inquiries. If a grievance, or a complaint, qualifies as a Title IX issue, the school may conduct an Informal Resolution or a Formal Investigation.

The complainant may request to dismiss their complaint at any time; however, the final dismissal decision lies with the Title IX Coordinator.

INFORMAL GRIEVANCE PROCEDURES FOR STUDENTS AND STAFF MEMBERS

Both parties, the Complainant and the Accused, may agree to an informal resolution. An Informal Resolution may include mediation, restorative justice, agreed separation, student/staff discipline, or on-going support measures. Informal resolutions can be individualized, but must be signed by both parties. The Title IX Coordinator will obtain the parties' written consent before using any kind of informal resolution. An informal resolution process will not be used where an employee allegedly sexually harasses a student.

FORMAL GRIEVANCE PROCEDURES FOR STUDENTS AND STAFF MEMBERS

The U.S. Department of Education's Title IX Final Rule requires schools to investigate and adjudicate formal complaints of discrimination based on sex and/or gender, sexual harassment, and/or sexual violence using a grievance process that; incorporates due process principles, treats all parties fairly, and reaches reliable responsibility determinations.

The Office of Civil Rights lists the following as mandated grievance procedures. CDHA incorporates the following mandates in its formal investigative procedures:

- Give both parties written notice of the allegations, an equal opportunity to select an advisor of the party's choice, and an equal opportunity to submit and review evidence throughout the investigation.
- Use trained Title IX personnel to objectively evaluate all relevant evidence without prejudgment of the facts at issue and free from conflicts of interest or bias for or against either party.
- Protect parties' privacy by requiring a party's written consent before using the party's medical, psychological, or similar treatment records during a grievance process.
- Apply a presumption that the respondent is not responsible during the grievance process so that the school bears the burden of proof and the standard of evidence is applied correctly.
- Use the same standard of evidence (the preponderance of the evidence standard) for all student and employee investigations and inquiries.
- Ensure the decision-maker is not the same person as the investigator or the Title IX Coordinator.
- Allow cross-examination by party advisors; ensure that both parties are given the opportunity to submit written questions to the other party and given the opportunity to answer questions provided to them by the other party.
- Protect all complainants from inappropriately being asked about prior sexual history ("rape shield" protections) (see page 2 of 3 U.S. Department of Education Title IX Final Rule Overview).
- Send both parties a written determination regarding responsibility, explaining how and why the decision maker reached their conclusions.

- Effectively implement remedies for a complainant if a respondent is found responsible for discrimination based on sex and/or gender, sexual harassment, and/or sexual violence.
- Offer both parties an equal opportunity to appeal.
- Protect any individual, including complainants, respondents, and witnesses, from retaliation for reporting discrimination based on sex and/or gender, sexual harassment, and/or sexual violence or participating (or refusing to participate) in any Title IX grievance process.
- Make all materials used to train Title IX personnel publicly available on the school's website or make these materials available upon request for inspection by members of the public.
- Document and keep records of discrimination based on sex and/or gender, sexual harassment, and/or sexual violence reports and investigations.

How to File a Greivance, Complaint, or Concern

You may fill out a paper complaint form available in your counseling office or speak to any Administrator.

In addition, you may report a concern verbally or by email to:

Title IX Coordinator Jesus Moncada
jmoncada@christineduncan.org
 Christine Duncan Heritage Academy
 1900 Atrisco Dr NW
 Albuquerque, NM 87120
 (505) 907-9670

Students and employees may also contact the Department of Education Office or Civil Rights Office to report discrimination by writing a letter or filing a complaint form available at <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

DEFINITIONS

The following are definitions of sexual assault, dating violence, domestic violence, and stalking according to the Clery Act. These definitions are posted to comply with Title IX mandates.

SEXUAL ASSAULT

Sexual assault is defined as:

- Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against person's will (non-consensually) in

instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- Sexual Assault With An Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by New Mexico law.
- Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent of New Mexico (NMSA 1978, Section 30-9-11).

DOMESTIC VIOLENCE

Domestic violence as defined in 34 U.S.C. 12291(a)(8)

A felony or misdemeanor crime of violence committed —

- By a current or former spouse or intimate partner of the Complainant
- By a person with whom the Complainant shares a child in common
- By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner
- By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New Mexico
- By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of New Mexico

DATING VIOLENCE

Dating violence as defined in 34 U.S.C. 12291(a)(10). Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition -dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

STALKING

Stalking as defined in 34 U.S.C. 12291(a)(30) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition - course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

ADDITIONAL RESOURCES

To review website Title IX information provided by the US Department of Health and Human Services please review their website at <https://www.hhs.gov/>

To review website Title IX information provided by the Special Ed Connection please review their website at <https://www.specialedconnection.com>

To review website Title IX information provided by Know Your IX please review their website at <https://www.knowyourix.org/>

To review sex trafficking prevention training for ages 8-11 years old, visit www.freedomfwd.org