



Title IX Sex-Based Non-Discrimination Policy

1. Purpose:

The Foundation for Hispanic Education (TFHE) is committed to maintaining a safe and respectful environment free from discrimination and harassment. In accordance with Title IX, no person shall be discriminated against on the basis of sex in any of TFHE's educational programs, activities, or interactions, including admissions and employment.

Title IX of the Education Amendments of 1972 ("Title IX") 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."

This Title IX Non-Discrimination Policy demonstrates TFHE's commitment to a harassment-free learning environment and provides a grievance process for handling sexual harassment allegations. Reports can be made to any TFHE staff member (e.g., Superintendent/CEO, HR, principals, teachers, etc.), and appropriate action will be taken in accordance with this policy.

2. Non-Discrimination:

Title IX protects all participants in TFHE educational programs and activities, including students, parents, employees, and job applicants. TFHE does not discriminate on the basis of sex. Discrimination on the basis of sex can include sexual harassment and sexual violence.

In addition to Title IX, the California Education Code prohibits discrimination on the basis of sex in schools (California Education Code § 220-221.1). Other state and federal laws also prohibit discrimination and ensure equality in education.

3. Definition of Sex Discrimination:

Under California Education Code section 212.5 "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) The conduct has the purpose or effect of having a negative impact upon the



individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Sexual harassment may include, but is not limited to:

- Unwelcome verbal conduct such as suggestive, derogatory comments, sexual innuendos, slurs, or unwanted sexual advances, invitations, or comments; pestering for dates; making threats; or spreading rumors about or rating others as to sexual activity or performance.
- Unwelcome visual conduct such as displays of sexually suggestive objects, pictures, posters, written material, cartoons, or drawings; graffiti of a sexual nature; or use of obscene gestures.
- Unwelcome physical conduct such as unwanted touching, pinching, kissing, patting, hugging, blocking of normal movement, assault; or interference with work or study directed at an individual because of the individual's sex, sexual orientation, or gender.
- Threats and demands or pressure to submit to sexual requests in order to keep a job or academic standing or to avoid other loss, and offers of benefits in return for sexual favors.

Under Education Code section 230, harassment and other discrimination on the basis of sex include, but are not limited to, the following: exclusion of a person or persons from participation in, denial of the benefits of, or subjection to harassment or other discrimination in, any academic, extracurricular, research, occupational training, or other program or activity; and exclusion from participation in, or denial of equivalent opportunity in, athletic programs. The full definition of discrimination and harassment based on sex from Education Code section 230 can be found here:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=230

The definition of sexual harassment under California law and the definition of Sexual Harassment under Title IX overlap in some areas. Complaints alleging unlawful discrimination, harassment, intimidation, or bullying based on gender, sex, gender identity or expression, or sexual orientation are eligible to be investigated pursuant to TFHE's Uniform Complaint Procedures (UCP). However, if any complaints alleging sexual harassment constitute Sexual Harassment as defined under Title IX (see below), the complaints shall be investigated under the Title IX Grievance Procedures for Sexual Harassment. TFHE



prohibits retaliatory behavior against anyone who files a sexual harassment complaint or any participant in the complaint investigation process.

Visit TFHE's website at <https://www.tfhe.org/governance/other-policies> complete steps for filing Title IX Grievance Procedures for Sexual Harassment.

4. Title IX Coordinator:

TFHE has designated the following individual as its Title IX Coordinator to oversee the investigation and resolution of formal complaints of sex-based discrimination or harassment, in accordance with this Policy:

Name: Erika Carvajal

Title: Director of Human Resources

Email: ecarvajal@tfhe.org

Phone: (408) 585-5022 ext. 1067

The Title IX Coordinator may designate other individual(s) to fulfill all or part of their responsibilities. In addition to the Title IX Coordinator, the following Title IX Personnel are involved in the grievance process to address formal complaints:

- **Investigator:** The individual responsible for gathering all evidence related to the formal complaint. This individual will prepare an "Investigation Report" summarizing the relevant evidence.
- **Decision-Maker:** The individual responsible for reviewing the evidence and making a determination regarding the formal complaint. The Decision-Maker will issue a written determination of findings to both parties. The Decision-Maker cannot be the Title IX Coordinator, the Investigator, or anyone else involved in the investigation of the formal complaint.
- **Title IX Appeals Officer:** If applicable, this individual is responsible for evaluating any appeal of the final determination. The Title IX Appeals Officer cannot be the Title IX Coordinator, the Investigator, or the Decision-Maker.

5. Filing a Complaint:

Any individual (e.g., a student, employee, or a parent or guardian of a student) who may be the victim of sexual harassment may file a complaint with TFHE's Title IX coordinator. Complaints may also be filed with any other available TFHE employee, who will immediately inform a Title IX Coordinator. To file a complaint, please use the following link: [Title IX Incident Reporting Form](#).



6. Statute of Limitation to File Complaint:

A complaint alleging retaliation or unlawful discrimination, (such as discriminatory harassment, intimidation, or bullying), **must be filed not later than six (6) months from the date occurred, or six (6) months from the date the complainant first obtained knowledge of the facts** of the alleged unlawful discrimination. The time for filing may be extended for up to ninety (90) days by the Superintendent/CEO or designee for good cause upon written request by the complainant setting forth the reasons for the extension.

7. Initial Review of Formal Complaint:

If a formal complaint is filed, the Title IX Coordinator will assess whether the allegations meet the Title IX definition of Sexual Harassment. TFHE may consolidate complaints arising from the same facts or circumstances.

If the allegations fall under Title IX, the Coordinator will follow the grievance process outlined in this Policy. If not, the Coordinator will determine whether to dismiss the complaint or investigate it under another relevant TFHE policy (e.g., Uniform Complaint Procedures (UCP)). Prior to a determination, TFHE may offer an informal resolution process (e.g., restorative justice or mediation), which is voluntary and not available if the complaint involves an employee sexually harassing a student.

8. Mandatory or Permissive Dismissal of Formal Complaint

In certain circumstances, the Title IX Coordinator is required or permitted to dismiss a formal complaint. The Title IX Coordinator will make this determination **within ten (10) calendar days** from the date the formal complaint is received, whenever possible.

Mandatory Dismissal

The Title IX Coordinator must dismiss a formal complaint if any of the following conditions are met:

1. The alleged conduct, even if proven, would not meet the definition of Sexual Harassment under Title IX;
2. The alleged conduct did not occur within TFHE's education program or activity;
3. The alleged conduct did not occur against an individual located in the United States.

Permissive Dismissal

The Title IX Coordinator may dismiss a formal complaint if any of the following conditions are met:

1. The alleged conduct, even if proven, would not meet the definition of Sexual Harassment under Title IX;
2. The alleged conduct did not occur within TFHE's education program or activity;



3. The alleged conduct did not occur against an individual located in the United States.

Written Notice of Dismissal

If the Title IX Coordinator dismisses a formal complaint, written notice of the dismissal will be sent to both the complainant and respondent simultaneously. The written notice will include the following information:

- The specific reason(s) for the dismissal;
- Information regarding the parties' right to appeal the decision, as outlined in the "Appeals" section below.

If the Title IX Coordinator determines that another TFHE grievance procedure (such as the Uniform Complaint Procedures) is more appropriate for addressing the complainant's allegations, the written notice will also inform the parties of TFHE's intent to investigate the complaint under that alternative procedure.

9. Grievance Process:

If the Title IX Coordinator determines that the complaint will not be dismissed, the grievance process will be initiated.

Written Notice of Formal Complaint

The Title IX Coordinator is required to provide both the complainant and respondent with a Notice of Formal Complaint. This notice will be issued within **ten (10) calendar days from the receipt of the formal complaint**, where possible. The Notice will include the following:

1. A copy of this Policy;
2. A description of the allegations that may constitute Sexual Harassment, with as much detail as is known at the time;
3. A statement clarifying that the respondent is presumed not responsible for the alleged conduct, and that a determination of responsibility will be made only after the conclusion of the grievance process;
4. Information regarding the parties' right to have an advisor of their choice throughout the process, and the opportunity to inspect and review evidence;
5. A statement that neither party should knowingly make false statements or submit false information.

Investigator Conducts Investigation

The Investigator will collect and review evidence related to the allegations, which may include interviews with the parties and witnesses, and the examination of relevant documents. The Investigator will not



request, require, or rely upon any information protected under a legally recognized privilege, unless waived by the holder of the privilege.

Written notice of all investigative interviews or meetings must be provided to individuals expected to participate, with sufficient time for preparation. This notice will include the date, time, location, participants, and purpose of the meeting. Participants are entitled to be accompanied by an advisor of their choosing.

Investigator Provides Equal Opportunity to Review Evidence

Both the complainant and respondent will be given an equal opportunity to review evidence directly related to the allegations raised in the formal complaint. Each party will have at least ten (10) calendar days to review the evidence, ask additional questions of the Investigator, and propose or submit further evidence for consideration before the Investigator's report is finalized.

Investigator Prepares and Shares Investigation Report

The Investigator will prepare a report summarizing the relevant evidence gathered during the investigation. This report is not the final written decision of TFHE. The Investigation Report will be shared with both parties and their advisors (if any) for review and written response at least ten (10) calendar days before a final decision is issued. TFHE will also inform the parties that they may submit relevant questions for the Decision-Maker to ask the parties or witnesses. The Decision-Maker is responsible for sharing any responses (if applicable) to those questions with both parties.

Decision-Maker Issues Written Decision

The Decision-Maker will issue a Written Decision within sixty (60) calendar days from the receipt of the formal complaint. The Written Decision will be provided simultaneously to both the complainant and respondent. The Decision-Maker will apply the "preponderance of evidence" standard (i.e., whether it is more likely than not that the respondent engaged in the alleged conduct). The Written Decision will include the following elements:

- Identification of the allegations that may constitute Sexual Harassment;
- A summary of the procedural steps taken during the investigation (e.g., notifications to the parties, interviews, site visits, evidence collection methods);
- Findings of fact supporting the determination;
- Conclusions on how TFHE's policies apply to the facts;
- A rationale for the outcome of each allegation, including a determination of responsibility, any disciplinary actions to be taken against the respondent, and whether any **corrective actions** will be provided to the complainant to restore or maintain equal access to TFHE's educational programs;



- Information on how each party can appeal the decision, including permissible bases for appeal.

Corrective Actions

If TFHE determines that the respondent engaged in Sexual Harassment, appropriate **corrective actions** will be provided to the complainant. These **corrective actions** may include supportive measures and may also involve actions such as class transfers, conferences, behavioral support, warnings, detention, or formal disciplinary actions, including suspension or expulsion. In cases where an employee is found to have committed Sexual Harassment, TFHE will take appropriate disciplinary action, which may include termination, in accordance with TFHE's policies and applicable laws.

10. Appeals

Both parties have the right to appeal TFHE's Written Decision, as well as the dismissal of a formal complaint or any specific allegation within the complaint, within five (5) calendar days of the decision. An appeal may be filed on the following grounds:

1. A procedural error that impacted the outcome.
2. New evidence, which was not reasonably available at the time of the determination regarding responsibility or dismissal, that could significantly alter the outcome.
3. A conflict of interest or bias on the part of the Title IX Coordinator, Investigator, or Decision-Maker that affected the outcome.

Upon receiving an appeal, TFHE will notify the opposing party in writing about the appeal and provide both parties with a reasonable opportunity to submit a written statement either supporting or challenging the appeal.

The Title IX Appeals Officer (who is not the Decision-Maker, Title IX Coordinator, or Investigator) will issue a written decision regarding the appeal, which will include the rationale for the decision, to both parties simultaneously. The Title IX Appeals Officer will strive to issue the decision within thirty (30) calendar days from the receipt of the appeal.

11. Record Keeping

TFHE will maintain records related to Title IX Sexual Harassment allegations for a minimum of seven (7) years, in compliance with 34 CFR Section 106.45(b)(10). This includes all documentation used for training Title IX Personnel.