Los Angeles County
Office of Education



Image courtesy of Circleville City School District

TK-12
Title IX Training

Prepared by
Jean Phan Buchanan
Deputy General Counsel III
LACOE Office of General Counsel

Presented by
Jean Phan Buchanan
Karen Osuna, Paralegal

Title IX: Title IX of the Education Amendments of 1972, which is a federal law that protects people from sex discrimination in education programs or activities of educational institutions that receive federal funds.

Current Regs: 2020

AR 5145.71: Title IX Sexual Harassment Complaint Procedures.

Los Angeles County
Office of Education

TITLE IX TEAM

- Title IX Coordinator*
- Investigator*
- Decision-Maker
- Appeal Decision-Maker
- Informal Resolution Process Facilitator*



*Title IX Coordinator can serve in all of these roles.

Los Angeles County
Office of Education

Agenda



1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County
Office of Education



Agenda

1. **Definitions**
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County
Office of Education



Image courtesy of Adobe Stock

Definitions

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. **Actual Knowledge**
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

A Title IX matter begins with ACTUAL KNOWLEDGE



Image courtesy of EdSurge News

34 CFR 106.44(a) – General response to sexual harassment. A [LEA] with ***actual knowledge*** of sexual harassment in an education program or activity of the [LEA] against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A [LEA] is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Actual Knowledge = when ***any*** employee becomes aware, i.e. by observation or via a report.

Employees should inform the Title IX Coordinator ASAP of any observations or reports.

Remember that **mandated reporter duties** still apply.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. **Actual Knowledge**
   a. Scope of Title IX
   b. Definition of Sexual Harassment
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process

Los Angeles County Office of Education

SCOPE of Title IX



Photo courtesy of iStock

34 CFR 106.44(a) – "[E]ducation program or activity" includes:

- locations, events, or circumstances
- over which the [LEA] exercised substantial control over *both* the *respondent* and the *context* in which the sexual harassment occurs…

Context: Consider the location, event, or circumstances. Is it on the LEA's property? Within the LEA's classes, program, activities, or operations?

For example, a class or extracurricular activity comes within an education program or activity. 34 CFR 106.40(b)(1).

Los Angeles County
Office of Education

SCOPE of Title IX



- Likely includes employee sexual abuse of student, even if off campus
- Misuse of devices at school
- If it is outside the scope of Title IX, consider proceeding under your LEA's UCP or other applicable code of conduct.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. **Actual Knowledge**
   a. Scope of Title IX
   b. Definition of Sexual Harassment
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process

Los Angeles County Office of Education

Definition of Sexual Harassment

*TIP: Consult with AR 5145.71 for your LEA's Title IX Sexual Harassment Complaint Procedures



Sexual Harassment means conduct "<u>on the basis of sex</u>" that satisfies one or more of the following:

1) **QUID PRO QUO**: An employee of the LEA's conditioning the provision of an aid, benefit, or service of the LEA's on an individual's participation in unwelcome sexual conduct; **<u>OR</u>**
2) **UNWELCOME CONDUCT** determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the LEA's education program or activity; **<u>OR</u>**
3) **SPECIFIC OFFENSES**: Sexual assault, dating violence, domestic violence, or stalking.

Los Angeles County Office of Education

"On the Basis of Sex"

EITHER

Conduct that is sexual in nature

(i.e. unwanted sexual attention)

OR

Conduct referencing or aimed at a particular sex

(i.e. gender harassment)

Example: A student stalking another student based on sexual attraction is "on the basis of sex." A student stalking another student to collect on a debt is not "on the basis of sex."

Los Angeles County
Office of Education

Definition of Sexual Harassment



Sexual Harassment means conduct "on the basis of sex" that satisfies one or more of the following:

1) **QUID PRO QUO**: An employee of the LEA's conditioning the provision of an aid, benefit, or service of the LEA's on an individual's participation in unwelcome sexual conduct; **OR**

2) **UNWELCOME CONDUCT** determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the LEA's education program or activity; **OR**

3) **SPECIFIC OFFENSES**: Sexual assault, dating violence, domestic violence, or stalking.

Los Angeles County
Office of Education



Image courtesy of Adobe Stock

Quid Pro Quo Sexual Harassment

An employee of the LEA's [explicitly or impliedly] conditioning the provision of an aid, benefit, or service of the LEA's on an individual's participation in unwelcome sexual conduct.

Los Angeles County
Office of Education

Quid Pro Quo
Sexual Harassment
HYPOTHETICAL



After volleyball practice at ABC High, the volleyball coach finds a volleyball player alone in the locker room and begins rubbing the player's lower back, which makes the player uncomfortable. The coach says he is only trying to make her feel better after a tough practice. When the player pushes the coach's hand away, the coach says he will make the player the team's captain if the player is more "cooperative" with the coach after practices.

Is it "quid pro quo" sexual harassment?

Los Angeles County
Office of Education

Definition of Sexual Harassment



Sexual Harassment means conduct "on the basis of sex" that satisfies one or more of the following:

1) **QUID PRO QUO**: An employee of the LEA's conditioning the provision of an aid, benefit, or service of the LEA's on an individual's participation in unwelcome sexual conduct; **OR**

2) **UNWELCOME CONDUCT** determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the LEA's education program or activity; **OR**

3) **SPECIFIC OFFENSES**: Sexual assault, dating violence, domestic violence, or stalking.

Los Angeles County
Office of Education

Unwelcome Conduct



Image courtesy of iStock

- Unwelcome conduct
- determined by a reasonable person to be so severe,
- pervasive, and
- objectively offensive
- that it effectively denies a person equal access to the LEA's education program or activity

Los Angeles County Office of Education

Unwelcome Conduct



Image courtesy of iStock

- **Unwelcome conduct***
- determined by a reasonable person to be so severe,
- pervasive, and
- objectively offensive
- that it effectively denies a person equal access to the LEA's education program or activity

*Ask if the complainant viewed the conduct as unwelcome.

Los Angeles County Office of Education

Unwelcome Conduct



Image courtesy of iStock

- Unwelcome conduct
- **determined by a reasonable person to be so severe***,
- pervasive, and
- objectively offensive
- that it effectively denies a person equal access to the LEA's education program or activity

*Severe from the perspective of a reasonable person in the complainant's position, taking into account the complainant's age, disability status, sex, and other characteristics, as well as the particular circumstances

Los Angeles County Office of Education

Unwelcome Conduct



Image courtesy of iStock

- Unwelcome conduct
- determined by a reasonable person to be so severe,
- **pervasive***, and
- objectively offensive
- that it effectively denies a person equal access to the LEA's education program or activity

*Consider the period of time, the number of people involved, or the magnitude of the conduct

Los Angeles County Office of Education

Unwelcome Conduct



Image courtesy of iStock

- Unwelcome conduct
- determined by a reasonable person to be so severe,
- pervasive, and
- **objectively offensive***
- that it effectively denies a person equal access to the LEA's education program or activity

*A reasonable person – standing in the shoes of the complainant – would find it offensive.

Los Angeles County Office of Education



Image courtesy of iStock

Unwelcome Conduct

- Unwelcome conduct
- determined by a reasonable person to be so severe,
- pervasive, and
- objectively offensive
- **that it effectively denies a person equal access to the LEA's education program or activity***

*Total exclusion or a loss of education not required; no specific type of reaction or concrete injury is necessary; ask if the conduct undermined and detracted from the victim's educational experience; ask if equal access to resources and opportunities are affected.

Los Angeles County
Office of Education

Sex-Based Harassment—Hostile environment harassment

Online Harassment



Image courtesy of ShutterStock

Los Angeles County
Office of Education

Online Harassment: can include, but is not limited to, unwelcome conduct on social media platforms

It can involve:

- sex-based derogatory name-calling,
- the nonconsensual distribution of intimate images (authentic and AI),
- cyberstalking,
- sending sex-based pictures or cartoons, and
- other sex-based conduct.

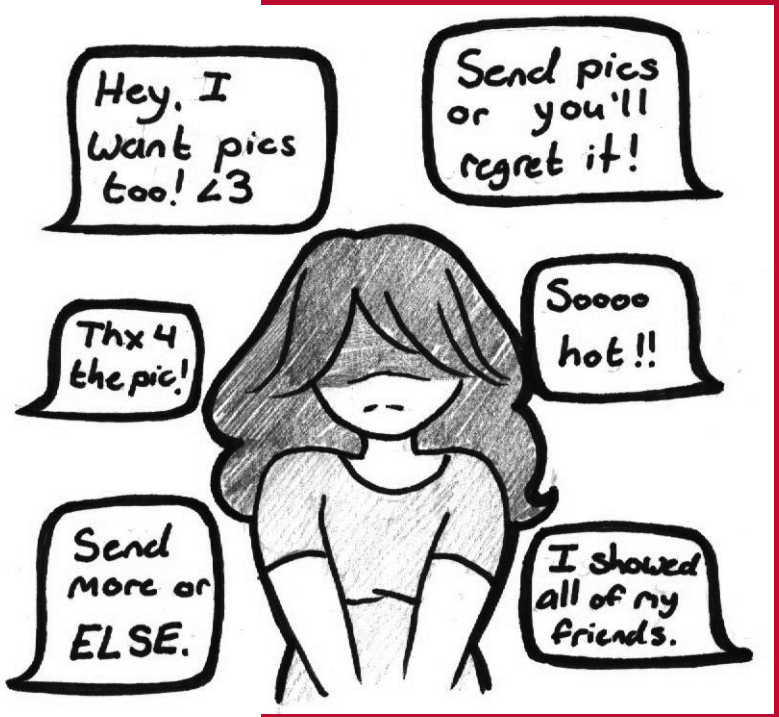


Image courtesy of HongKongBuzz.hk

- **LEAs are required to address a hostile environment in its education program or activity.**
- **Likely be considered part of the education program or activity:**
    - online instruction at home,
    - remote learning,
    - participation in other online school activities, or
    - (to the extent they involve schoolwork) communications to school e-mail accounts or phones and speech on a school's website.
- **An LEA must address a hostile environment in its education program or activity:**
    - Even when the hostile environment is due to conduct that occurs online, and
    - Even when the hostile environment is due to conduct that occurs outside of a specific school activity
- **BOTTOM LINE**: The Department of Educations says LEAs must address all forms of sex discrimination, including sex-based harassment within the LEA's education program or activity, whether the conduct takes place online, in person, or both

Los Angeles County
Office of Education

Definition of Sexual Harassment



Sexual Harassment means conduct "on the basis of sex" that satisfies one or more of the following:

1) **QUID PRO QUO**: An employee of the LEA's conditioning the provision of an aid, benefit, or service of the LEA's on an individual's participation in unwelcome sexual conduct; **OR**

2) **UNWELCOME CONDUCT** determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the LEA's education program or activity; **OR**

3) **SPECIFIC OFFENSES**: Sexual assault, dating violence, domestic violence, or stalking.

Los Angeles County
Office of Education

Specific Offenses

Is it sexual assault?
Is it dating violence?
Is it domestic violence?
Is it stalking?

Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Nonforcible sex offenses: Sexual acts where consent was absent due to relationships or age.

Forcible sex offenses: Sexual acts directed against another person without consent, including forcible fondling.

Old Definition (Before June 23, 2025)	New Definition (June 23, 2025 and later)
“Fondling”	**“Criminal Sexual Contact”**
The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim.	The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor’s clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Los Angeles County
Office of Education

Specific Offenses

Is it sexual assault?
Is it dating violence?
Is it domestic violence?
Is it stalking?

Sex-Based Harassment—Specific Offenses



Image courtesy of iStock

(iv) ***Stalking*** *means 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.

Los Angeles County Office of Education

Sex-Based Harassment—Specific Offenses



Image courtesy of iStock

*Stalking meaning 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*

- *"**Course of conduct**" means more than one incident*
- *Course of conduct must be directed at a specific person*
- *Can be in person or via technology*
- *Consider duration, frequency, and intensity of conduct*
- *Tactics can include: watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks*
- *Reasonable person in the complainant's position*
- *Medical or other professional treatment and counseling is not required to show substantial emotional distress*

Los Angeles County
Office of Education

HYPOTHETICAL



Elaine is a student at ABC High. Jerry is another student at ABC High. Although Elaine and Jerry don't have any classes together, they meet each other through a school-sponsored club on a social media platform. They soon realize they share a love of making jokes about nothing, and they form a romantic relationship by talking online over a matter of weeks. Eventually, Elaine decides she does not like Jerry anymore because he is too immature for her. Jerry becomes upset. As revenge, Jerry tells George, another student in the school's club, that Elaine had a sexual relationship with Jerry, which is not true. Jerry told George this over social media. George then tells the same rumor to a bunch of other students at ABC High, who tell their friends, and so on and so forth. At school, multiple students begin to harass Elaine on a daily basis over a period of weeks, calling Elaine a "slut." Elaine has been unable to concentrate at school because of the harassment…and she reports what has happened to you, her English teacher.

Does this fall within ABC High's education program or activity?
Is it quid pro quo, hostile environment, or specific offenses?

Los Angeles County
Office of Education

Agenda



1. Definitions
2. Actual Knowledge
3. **Title IX Coordinator Intake**
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

Title IX Coordinator Intake



- The Title IX Coordinator must **promptly contact** the complainant
- **Discuss** the availability of supportive measures and consider the complainant's wishes with respect to supportive measures
- **Inform** the complainant of the availability of supportive measures with or without the filing of a formal complaint,
- **Explain** to the complainant the process for filing a formal complaint, and
- **Determine** whether the complainant wants supportive measures and wants to file a formal complaint.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. **Supportive Measures**
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

Supportive Measures



- **Examples**: Counseling, course-related adjustments, modifications of class schedules, campus escort services, mutual restrictions on contact, increased security, leaves of absence, and monitoring of certain areas of the campus.
- **Definition**: Individualized services offered as appropriate and as reasonably available, whether or not a formal complaint has been filed, that are designed to:
    - Restore or preserve equal access to the education program or activity,
    - Protect the safety of all parties or the educational environment, or
    - Deter sexual harassment.
- **Note**: Non-disciplinary, non-punitive, cannot unreasonably burden the other party. Must be kept confidential to the extent possible.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. **Formal Complaint**
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

Formal Complaint



- *Formal complaint* means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting an investigation into the allegation of sexual harassment.
- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the LEA.
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail.
- The formal complaint needs the complainant's physical or digital signature, or otherwise needs to indicate that the complainant is the person filing the formal complaint.
- The Title IX Coordinator can also file and sign a formal complaint.
- If a formal complaint isn’t filed, remember **Plan B**.

Los Angeles County
Office of Education

Consolidation of Complaints



Image courtesy of Adobe Stock

If the allegations involve one or more complainants or one or more respondents and arise out of the same facts or circumstances, complaints can be consolidated.

Los Angeles County
Office of Education



shutterstock.com · 399344170

Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. **Dismissals**
    a. Mandatory
    b. Permissive
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

Mandatory Dismissal



Image courtesy of Adobe Stock

If the conduct alleged in the formal complaint:

- would not constitute sexual harassment even if proved,
- did not occur in the LEA's education program or activity, OR
- did not occur against a person in the United States,

then the LEA must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX.

***Remember Plan B**: Such a dismissal does not preclude action under another provision of the recipient's code of conduct.

Los Angeles County Office of Education

Permissive Dismissal



Image courtesy of iStock

The LEA ***may*** dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- the respondent is no longer enrolled or employed by the LEA; OR
- specific circumstances prevent the LEA from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Los Angeles County Office of Education



Image courtesy of Adobe Stock

IF A COMPLAINT *IS* DISMISSED:

- The LEA must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
- Dismissals may be appealed.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. **Serving Impartially**
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

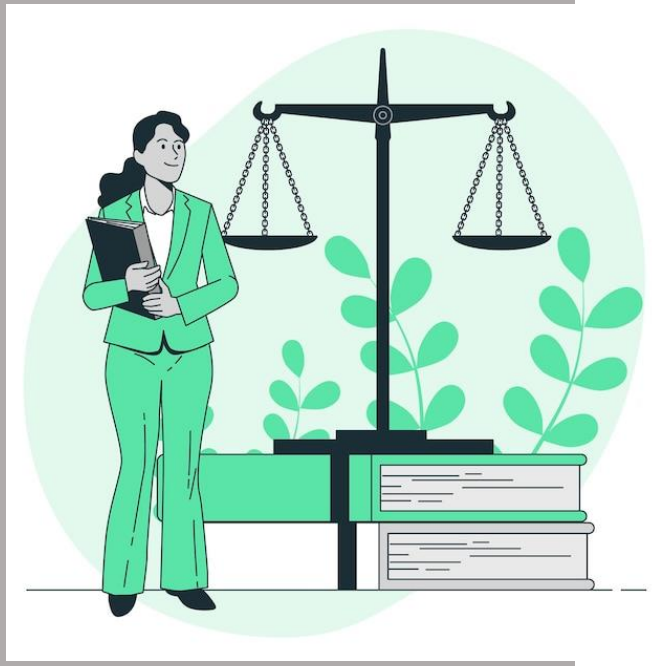


Image courtesy of Freepik

Title IX Coordinator, investigator, decision-maker, and informal resolution process facilitator must be impartial, meaning they should avoid:

- prejudgment of the facts at issue,
- conflicts of interest, and
- bias.

Los Angeles County
Office of Education



Image courtesy of AdobeStock

Prejudgment

"The credibility of any party, as well as ultimate conclusions about responsibility for sexual harassment, must not be prejudged and must be based on objective evaluation of the relevant evidence in a particular case."

Los Angeles County
Office of Education





Conflict of Interest and Bias

Any individual designated by an LEA as a Title IX Coordinator, investigator, decision-maker, informal resolution process facilitator, may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Los Angeles County
Office of Education

HYPOTHETICAL



Al is sitting in his office one day and gets a call from the Title IX Coordinator. The Coordinator asks Al to serve as an investigator for a Title IX matter. Apparently, the allegation is that a student, Bill, has been engaging in sexual harassment of another student, Monica. It turns out that Al has known Bill personally for a number of years because Al is friends with Bill's parents. Al knows Bill has a girlfriend named Hillary, and Al just can't imagine Bill engaging in the alleged conduct. Al tells the Title IX Coordinator that Bill did not engage in sexual harassment against that girl, Monica, and that Al will investigate and will come to that same conclusion at the end of the investigation.

Is there prejudgment of the facts at issue, a conflict of interest, or bias?

Los Angeles County
Office of Education



Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. **Informal Resolution**
9. Grievance Process
10. Record Keeping

Los Angeles County Office of Education

Informal Resolution

Examples: restorative justice, mediation

WHO can be offered informal resolution? Anyone UNLESS it is alleged that an employee sexually harassed a student. Employee respondents cannot be offered informal resolution.

WHEN can informal resolution be offered? After a formal complaint is filed and before a determination regarding responsibility is reached.

WHAT procedures have to be followed?

- LEA determines informal resolution may be appropriate;
- Voluntary, written consent to the informal resolution process from both parties;
- Written notice to the parties disclosing: (1) the allegations; (2) requirements of informal resolution process; (3) parties can withdraw from informal resolution process and resume the formal complaint process at any time prior to a resolution through the informal resolution process; and (4) consequences from participating in the informal resolution process including the records that will be maintained or could be shared.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. **Grievance Process**
10. Record Keeping

Los Angeles County Office of Education

Basic Requirements for Title IX Grievance Process



Image courtesy of Flaticon

1. Treat parties equitably – provide remedies to complainant if there's a determination of responsibility, and don't impose discipline on respondent until a determination is made;
2. Objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as complainant, respondent, or witness;
3. Title IX team that is free from conflict of interest or bias and who are trained to conduct impartial grievance process;
4. Presumption that respondent is not responsibility until determination regarding responsibility is made;
5. Reasonably prompt time frames and a process allowing for temporary delays or extensions of time frames for good cause with written notice;
6. Describe or list range of possible disciplinary sanctions and remedies;
7. State standard of evidence: preponderance of evidence or clear and convincing, same standard as for employees;
8. Include procedures and permissible bases for appeal;
9. Describe range of supportive measures available; AND
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, privileged information, unless waived.

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. Notice of Allegations
3. Emergency Removal?
4. Investigation
5. Question and Answer Process
6. Determination
7. Appeal

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. **Title IX Complaint is Filed**
2. Notice of Allegations
3. Emergency Removal?
4. Investigation
5. Question and Answer Process
6. Determination
7. Appeal

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. **Notice of Allegations**
3. Emergency Removal?
4. Investigation
5. Question and Answer Process
6. Determination
7. Appeal

Los Angeles County Office of Education



Image courtesy of Freepik

Notice of Allegations

- Must be written and provided to the parties who are known
- Set forth the grievance process, including any informal resolution process
- Set forth the allegations, including sufficient details known at the time (i.e. identities of the parties involved in the incident if known, the alleged conduct, and the date and location of the alleged incident)
- Provide sufficient time to prepare a response before any initial interview
- Include statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process
- Inform parties they may have an advisor of their choice who may inspect and review evidence
- Inform parties of the LEA's code of conduct which prohibits knowingly making false statements or knowingly submitting false information

*If the LEA decides to investigate additional allegations not included in the initial notice of allegations, the LEA must provide notice of the additional allegations to the parties whose identities are known

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. Notice of Allegations
3. **Emergency Removal?**
4. Investigation
5. Question and Answer Process
6. Determination
7. Appeal

Los Angeles County Office of Education

~~Suspension or Expulsion~~ Removal



Requirements:

- Individualized safety and risk analysis
- Determination that an immediate threat to physical health or safety arises from the allegations
- Notice and opportunity to challenge the decision immediately following the removal

*comply with IDEA, Section 504, and ADA for students with disabilities

Los Angeles County
Office of Education

HYPOTHETICAL



Taylor and Jake are students at ABC High. They were in a romantic relationship for about a year before Taylor decided to break up with Jake about few months ago. Jake did not take the break up well, and has been moody and aggressive toward Taylor ever since. In fact, Jake has told Taylor that Jake will hurt himself if Taylor does not get back together with him. Taylor has told Jake that Taylor is never, ever, ever, getting back together, with Jake. After Taylor said this, Jake began stalking Taylor at school. Now, Jake has been leaving disturbing and threatening notes, saying that if Jake can't have Taylor, Jake will make sure no one can.

You're the Title IX Coordinator for ABC High, and Taylor has filed a Title IX Complaint with you setting forth everything that has happened since the breakup. Taylor tells you she feels seriously threatened by Jake. Can you remove Jake from the school on an emergency basis, why or why not?

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. Notice of Allegations
3. Emergency Removal?
4. **Investigation**
5. Question and Answer Process
6. Determination
7. Appeal

Los Angeles County
Office of Education

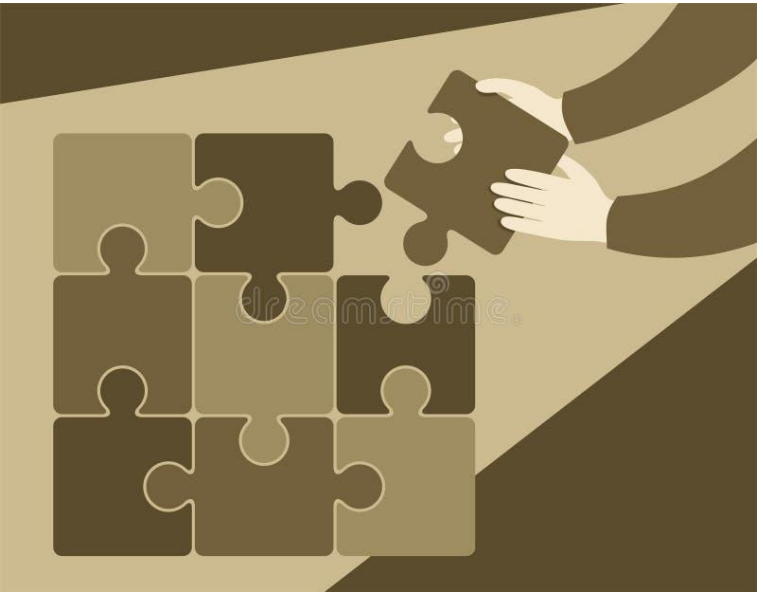


Image courtesy of Dreamstime

Title IX Investigation

1. Gather Information
2. Evidence Review by Parties
3. Review Parties' Responses to Evidence
4. Prepare & Provide Investigative Report
5. Responses to Investigative Report

Los Angeles County
Office of Education

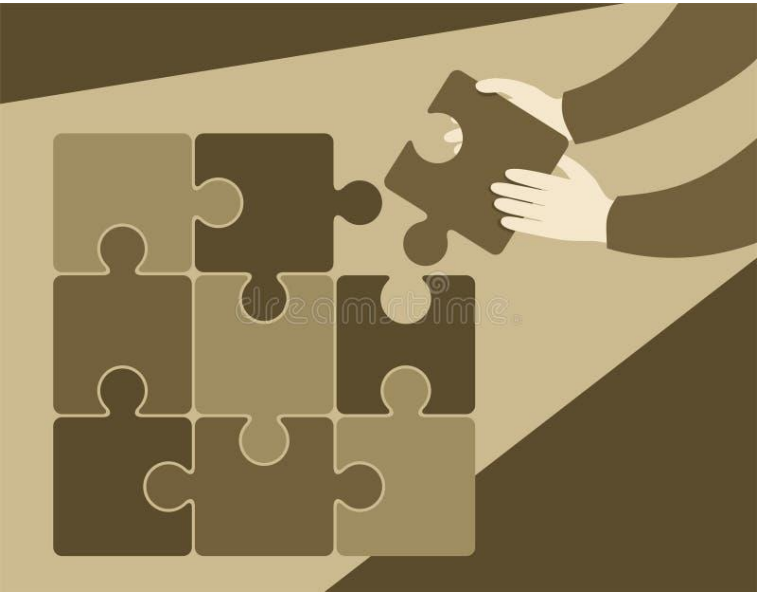


Image courtesy of Dreamstime

Title IX Investigation

1. **Gather Information**
2. Evidence Review by Parties
3. Review Parties' Responses to Evidence
4. Prepare & Provide Investigative Report
5. Responses to Investigative Report

Los Angeles County
Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- Provide written notice of interview
- Advisors of choice may attend interview
- Can’t restrict ability of parties to discuss allegations or to gather and present evidence
- Parties can present witnesses and other evidence
- Burden of proof and burden of gathering evidence is on the LEA
- LEA cannot “access, consider, disclose, or otherwise use” treatment records unless have voluntary written consent

Los Angeles County
Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- **Provide written notice of interview**
- Advisors of choice may attend interview
- Can’t restrict ability of parties to discuss allegations or to gather and present evidence
- Parties can present witnesses and other evidence
- Burden of proof and burden of gathering evidence is on the LEA
- LEA cannot “access, consider, disclose, or otherwise use” treatment records unless have voluntary written consent

Los Angeles County
Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- Provide written notice of interview
- **Advisors of choice may attend interview**
- Can’t restrict ability of parties to discuss allegations or to gather and present evidence
- Parties can present witnesses and other evidence
- Burden of proof and burden of gathering evidence is on the LEA
- LEA cannot “access, consider, disclose, or otherwise use” treatment records unless have voluntary written consent

Los Angeles County
Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- Provide written notice of interview
- Advisors of choice may attend interview
- **Can't restrict ability of parties to discuss allegations or to gather and present evidence***
- Parties can present witnesses and other evidence
- Burden of proof and burden of gathering evidence is on the LEA
- LEA cannot "access, consider, disclose, or otherwise use" treatment records unless have voluntary written consent

*But parties also may not engage in retaliation, i.e. tampering with witnesses or harassing parties or witnesses.

Los Angeles County Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- Provide written notice of interview
- Advisors of choice may attend interview
- Can't restrict ability of parties to discuss allegations or to gather and present evidence
- **Parties can present witnesses and other evidence**
- Burden of proof and burden of gathering evidence is on the LEA
- LEA cannot "access, consider, disclose, or otherwise use" treatment records unless have voluntary written consent

***TIP:** Ask parties early on to submit ALL of their evidence to avoid piecemeal submissions of evidence, because the Investigator will have to provide the evidence to the parties for review later!

Los Angeles County
Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- Provide written notice of interview
- Advisors of choice may attend interview
- Can't restrict ability of parties to discuss allegations or to gather and present evidence
- Parties can present witnesses and other evidence
- **Burden of proof and burden of gathering evidence is on the LEA**
- LEA cannot "access, consider, disclose, or otherwise use" treatment records unless have voluntary written consent

Los Angeles County Office of Education



Image courtesy of AdobeStock

Ground Rules for Information Gathering:

- Provide written notice of interview
- Advisors of choice may attend interview
- Can't restrict ability of parties to discuss allegations or to gather and present evidence
- Parties can present witnesses and other evidence
- Burden of proof and burden of gathering evidence is on the LEA
- **LEA cannot "access, consider, disclose, or otherwise use" treatment records* unless have voluntary written consent**

*Records from a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional

Los Angeles County
Office of Education

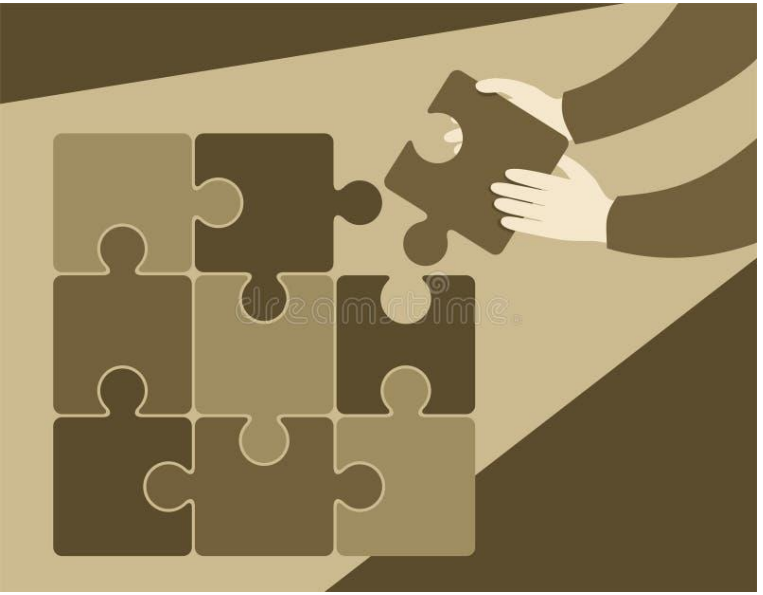


Image courtesy of Dreamstime

Title IX Investigation

1. Gather Information
2. **Evidence Review by Parties**
3. Review Parties' Responses to Evidence
4. Prepare & Provide Investigative Report
5. Responses to Investigative Report

Los Angeles County Office of Education



Image courtesy of Vecteezy

What Evidence is "Subject to Inspection"?

- Obtained as part of the investigation
- Directly related to the allegations
- Including evidence LEA does not intend to rely on
- Including inculpatory and exculpatory evidence

*Purpose: So each party can meaningfully respond to the evidence prior to conclusion of the investigation

Los Angeles County
Office of Education

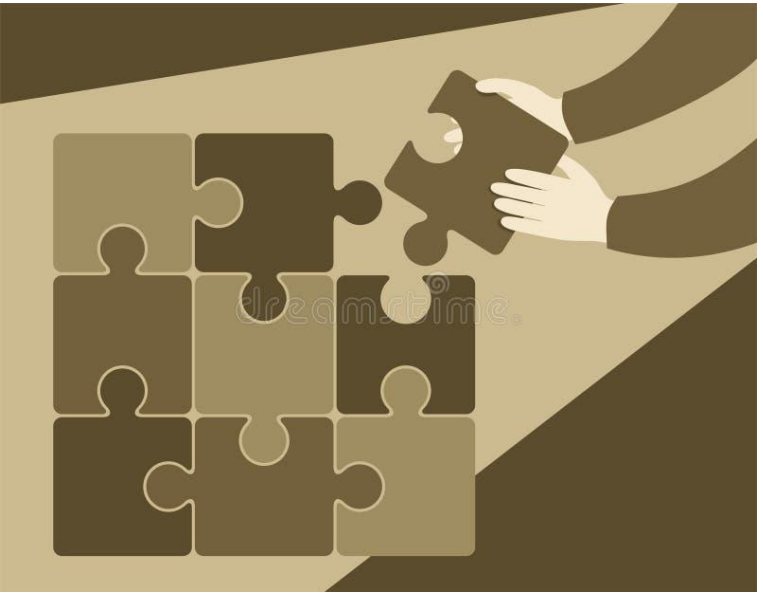


Image courtesy of Dreamstime

Title IX Investigation

1. Gather Information
2. **Evidence Review by Parties**
3. Review Parties' Responses to Evidence
4. Prepare & Provide Investigative Report
5. Responses to Investigative Report

Los Angeles County
Office of Education

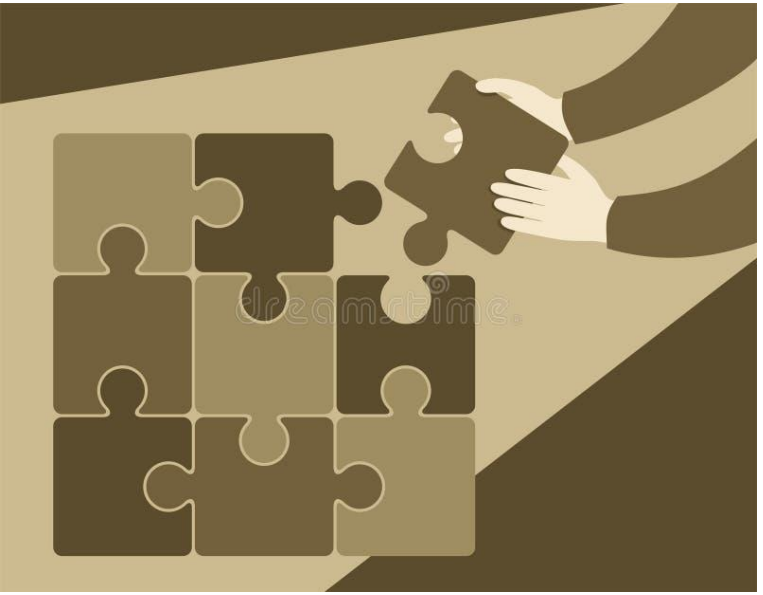


Image courtesy of Dreamstime

Title IX Investigation

1. Gather Information
2. Evidence Review by Parties
3. **Review Parties' Responses to Evidence**
4. Prepare & Provide Investigative Report
5. Responses to Investigative Report

Los Angeles County
Office of Education

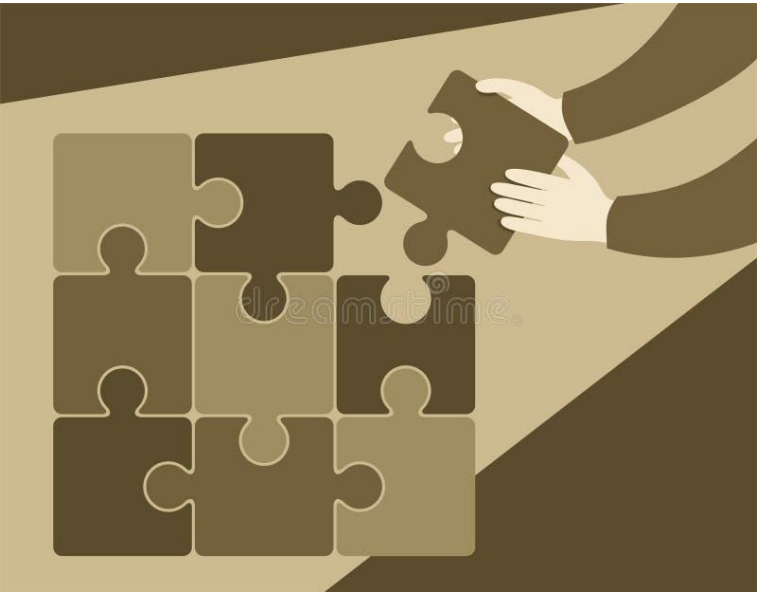


Image courtesy of Dreamstime

Title IX Investigation

1. Gather Information
2. Evidence Review by Parties
3. Review Parties' Responses to Evidence
4. **Prepare & Provide Investigative Report**
5. Responses to Investigative Report

Los Angeles County
Office of Education

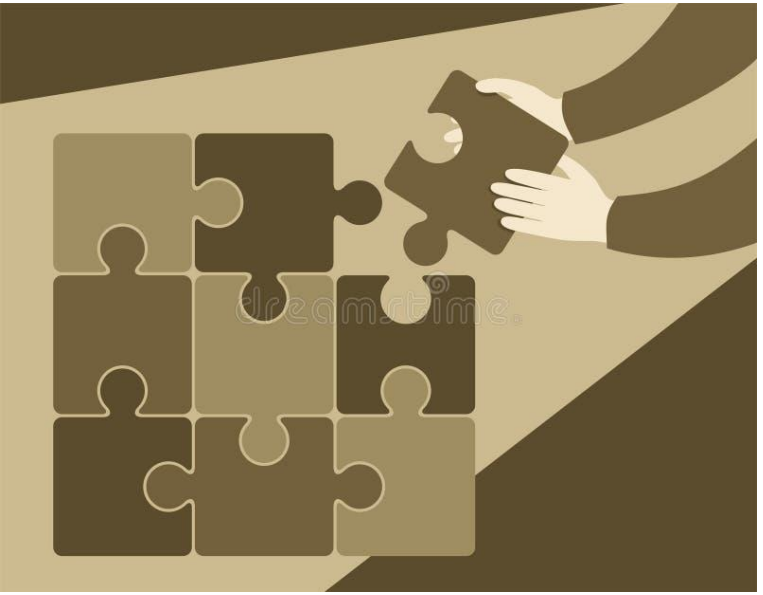


Image courtesy of Dreamstime

Title IX Investigation

1. Gather Information
2. Evidence Review by Parties
3. Review Parties' Responses to Evidence
4. Prepare & Provide Investigative Report
5. **Responses to Investigative Report**

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. Notice of Allegations
3. Emergency Removal?
4. Investigation
5. **Question and Answer Process**
6. Determination
7. Appeal

Los Angeles County Office of Education

Question and Answer Process

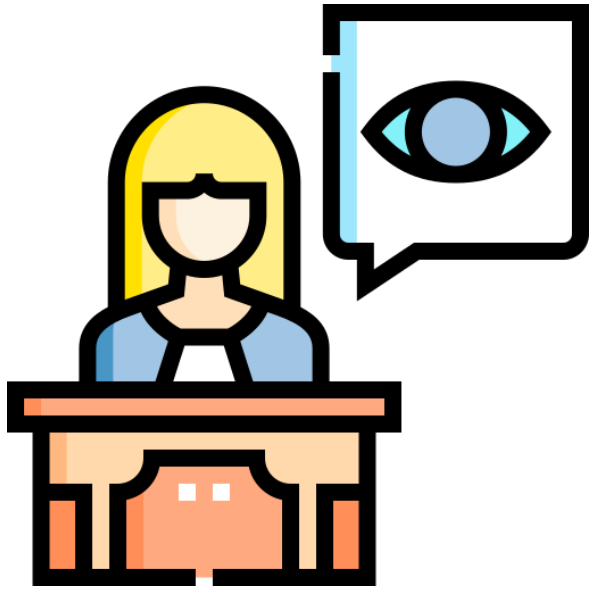


Image courtesy of Flaticon

1. Allow parties the opportunity to submit written, relevant questions they want asked of any party or witness
2. Provide each party with the answers
3. Allow for additional, limited follow-up questions from each party

*Decision-Maker must explain to the party proposed the questions any decision to exclude a question as not relevant

*Sexual predisposition or prior sexual behavior are not relevant, with few exceptions

Los Angeles County Office of Education



(1) Questions and Evidence about the complainant's sexual predisposition are irrelevant, *without exception*.

(2) Questions and Evidence about the complainant's prior sexual behavior are irrelevant, *unless* they are directly related to the allegations and they are:

- EXCEPTION: relevant to prove that someone other than the respondent committed the conduct alleged by the complainant, or
- EXCEPTION: they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent

Los Angeles County
Office of Education

HYPOTHETICAL



Britney and Justin are high school sweethearts at ABC High. Britney bested Justin at a basketball game, which enraged Justin. After this incident, Justin started to sexually harass Britney by making unwanted physical contact with her, including by touching her body inappropriately. Britney filed a Title IX complaint against Justin. You're the decisionmaker. While you're reviewing the investigation file, you see that several students reported that Justin was known among the girls as the "grabby guy," and that he inappropriately touched several other female students at ABC High after he became mad at them for one reason or another.

Should you, as the decisionmaker, consider the other students' testimony regarding Justin's prior sexual behavior in coming to a conclusion about whether or not Justin created a hostile environment for Britney?

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. Notice of Allegations
3. Emergency Removal?
4. Investigation
5. Question and Answer Process
6. **Determination**
7. Appeal

Los Angeles County Office of Education

Written Determination: Contents



Image courtesy of Freepik

- The allegations
- A description of the procedural steps taken from receipt to determination
- Findings of fact supporting the determination
- Conclusions regarding the application of the LEA's code of conduct to the facts
- A statement of and rationale for the result as to each allegation
  - A determination regarding responsibility
  - Any disciplinary sanctions the LEA imposes on respondent
  - Whether remedies will be provided by the LEA to the complainant
- Appeal procedures, including permissible bases to appeal

Los Angeles County Office of Education



Image courtesy of Freepik

Written Determination: Rules

- Must be in writing
- Must be provided to parties simultaneously
- Apply the standard of evidence: for most LEAs will be the preponderance of the evidence standard (i.e. more likely than not, 50%+)
- Becomes final on the date on which an appeal would no longer be considered timely or on the date that the parties are provided with the results of the appeal (if any)
- Title IX Coordinator is responsible for effective implementation of any remedies

Los Angeles County
Office of Education



Image courtesy of Flaticon

Title IX Grievance Process

1. Title IX Complaint is Filed
2. Notice of Allegations
3. Emergency Removal?
4. Investigation
5. Question and Answer Process
6. Determination
7. **Appeal**

Los Angeles County Office of Education



Image courtesy of ShutterStock

WHAT can be appealed:

- A determination regarding responsibility
- A dismissal of a formal complaint/allegations.

BASES for appeal:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Los Angeles County Office of Education

Appeals Process



Image courtesy of Flatiron

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
4. Issue a written decision describing the result of the appeal and the rationale for the result; and
5. Provide the written decision simultaneously to both parties.

Los Angeles County
Office of Education



Agenda

1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. **Record Keeping**

Los Angeles County Office of Education

Record Keeping

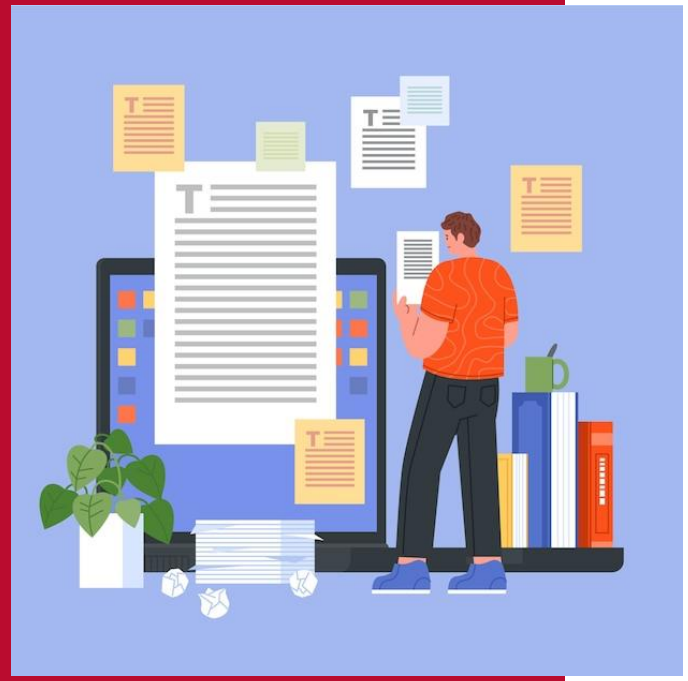


Image courtesy of Freepik

Maintain for seven years:

- Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- Any actions, including any supportive measures or decision not to provide supportive measures, taken in response to a report or formal complaint of sexual harassment and reasons for the actions.
- All training materials. (must be publicly available on website; if no website, make training materials available upon request for inspection by members of the public)

Los Angeles County
Office of Education

Agenda



1. Definitions
2. Actual Knowledge
3. Title IX Coordinator Intake
4. Supportive Measures
5. Formal Complaint
6. Dismissals
7. Serving Impartially
8. Informal Resolution
9. Grievance Process
10. Record Keeping

Los Angeles County
Office of Education



Image courtesy of Circleville City School District

Thank You/ Questions

Prepared by
Jean Phan Buchanan
Deputy General Counsel III
LACOE Office of General Counsel
Buchanan_Jean@lacoe.edu

Presented by
Jean Phan Buchanan
Karen Osuna, Paralegal