

JAMES A. ODLUM
KARL N. HAWS*
JIM C. MOORE*
MARSHALL L. BRUBACHER
G. BRENT SIMS
JOYCE X. YU
FRANK M. LUNN
DANIELLE L. BLOCKER
ZACHARY J. AMOS
GARRETT WICK



650 E. Hospitality Lane, Suite 470
San Bernardino, CA 92408-3595

TELEPHONE
(909) 890-9500

FACSIMILE
(909) 890-9580

THOMAS C. MUNDELL (1951-2013)

A California Limited Liability Partnership including a Professional Corporation

*A Professional Corporation

Fontana Unified School District

Title IX Training Outline

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Prepared by: Jim C. Moore
Joyce Yu

I. Title IX Legal Requirements and Overview

A. Required Training

Title IX regulations require any individual designated by a local educational agency (“LEA”) as a Title IX Coordinator, investigator,¹ decision-maker,² or any person designated to facilitate an informal resolution process, to receive training on the definition of sexual harassment under the law, the scope of the LEA’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. (34 C.F.R. § 106.45(b)(1)(iii).)

B. Sources of Legal Authority

- Statutory Authority: Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681).
- Regulatory Authority: 34 C.F.R. Part 106.³
- FUSD Board Policy/Administrative Regulation 5145.71
- Other sources of authority and guidance
 - State law (California Ed. Code defines harassment more broadly)
 - Case law
 - Department guidance
 - Best practice

C. Title IX Legal Standard

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.

<i>“on the basis of sex”</i>	Defined conduct on the basis of sex includes: • Quid pro quo. An employee of the school conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct • Hostile environment. 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 school’s education program or activity.
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¹ Investigators must also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

² Decision-makers must also receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant.

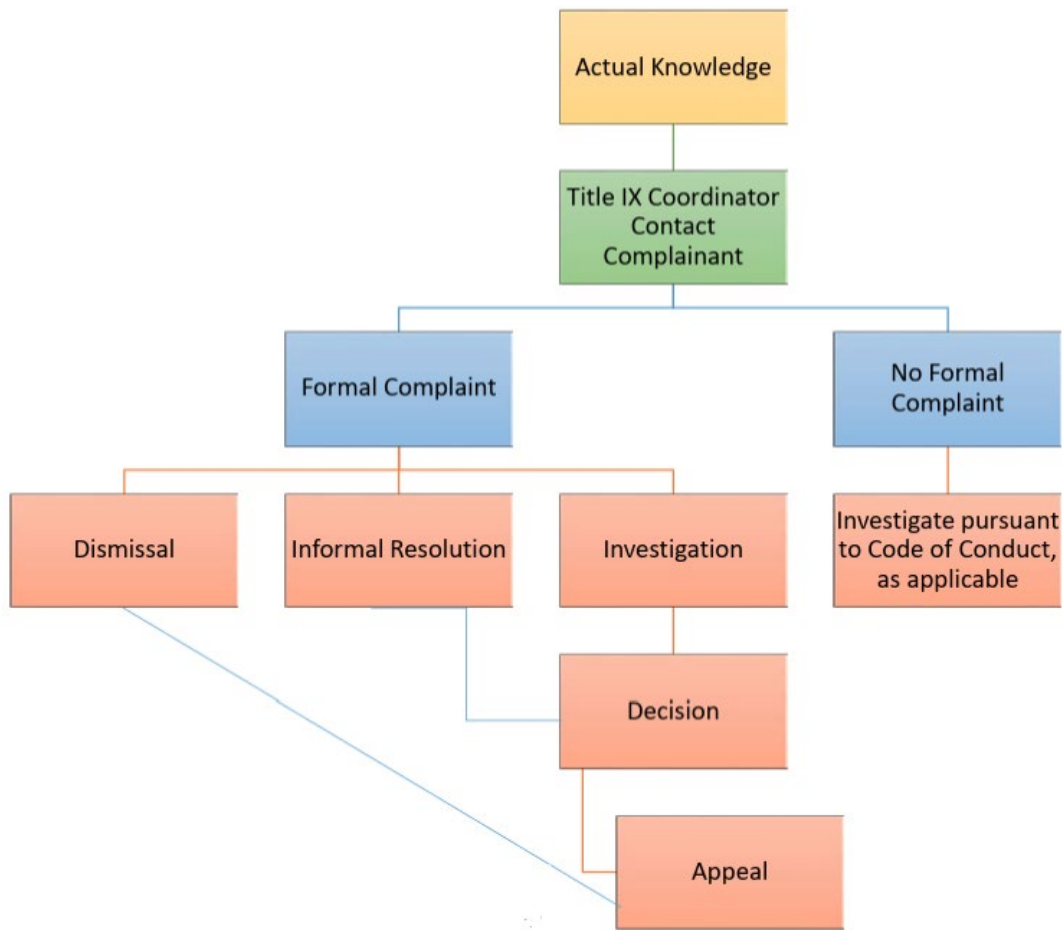
³ Tennessee v. Cardona (2025) – federal court vacated 2024 Title IX regulations, reverting schools to the 2020 rules until further notice. As of now, the 2020 regulations are in effect.

	• Sexual assault. Any sexual act directed against a Complainant without consent. Sexual Assault includes fondling, incest, rape, sexual assault with an object, sodomy, and statutory rape. • Dating Violence. Domestic violence includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim • Domestic violence. Violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship. (ii) the type of relationship. (iii) the frequency of interaction between the persons involved in the relationship. • Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or to suffer substantial emotional distress.
<i>“education program or activity”</i>	Any locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution Off-campus activities covered if either of the below condition is met: A. the off-campus incident occurs as part of the school’s operations; B. the school exercised substantial control over the respondent and the context of alleged sexual harassment that occurred; or Does not apply if: A. Occurred off-campus and does not occur in an education program or activity. B. When conduct occurs off-campus via social media C. When conduct occurs outside of the United States

D. School District Responsibility

Educational institutions must respond in a manner that is not ***deliberately indifferent*** when it has actual knowledge of sexual harassment occurring in the institution’s education program or activity against a person in the United States.

E. Title IX Grievance Process



Actual Knowledge. When sexual harassment or allegations of sexual harassment come to the attention of *any* K-12 district. All employees must report to the Title IX Coordinator.

Title IX Coordinator Contact Complainant. Title IX coordinator should respond promptly in a manner that is not deliberately indifferent. Contact complainant to explain Title IX legal standards and the District's Title IX process, including the complainant's right to file a formal complaint. Knowledge often arises when a complainant has filed a formal complaint.

No Formal Complaint filed. If the complainant and the Title IX coordinator decide not to issue a formal complaint, the District may still investigate the complaint pursuant to student conduct and other applicable District policies and offer supportive measures to the students involved.

Formal Complaint. May be filed by the complainant or the Title IX coordinator.

Dismissal. If the Title IX coordinator determines the complainant is not relevant to Title IX, it may dismiss the complaint.

Informal Resolution. Upon the written consent of both the complainant and the respondent, the District may facilitate the resolution of the complaint via informal resolution.

Investigation.

Both parties receive notice of the allegations. The Notice of Allegations must include:

- Identities of parties, conduct alleged, date/location.
- Right to an advisor.
- Presumption of not responsible.
- Standard of evidence (preponderance).

The investigator may be outside investigator or District staff. The investigation must:

- Provide equal opportunity to present witnesses and evidence.
- Place no restriction on parties discussing allegations.
- Provide both parties all evidence directly related in a 10-day review period prior to completion of investigation report.
- Draft report and allow parties an additional 10 days to review and pose questions.
- Submit the final report sent to decision-maker.

Decision. The decision maker must be separate from the investigator.

Appeal. Either party has the option to appeal the final decision.

F. Supportive vs. Disciplinary Measures vs. Emergency Removal

Supportive measures are non-punitive, non-disciplinary and can be made available to both parties. Supportive measures cannot punish the respondent before determination of responsibility. Examples include:

- Counseling.
- Separating the parties (change of school, modification of class schedules)
- Escort or campus safety measures.
- Increased monitoring or supervision.

Disciplinary measures are only allowed after the respondent has been deemed responsible. Examples could include suspension, expulsion, or removal from programs.

Emergency removal of a student is permissible before the determination of responsibility if the District determines there is an immediate threat to physical health or safety after conducting a case-by-case individualized risk assessment. The respondent must be provided notice and an opportunity to challenge the removal.

G. Appeals

- Available to both parties.
- Grounds:
 - Procedural irregularity.
 - New evidence.
 - Bias or conflict of interest.
- Appeal officer issues final written decision.

H. Informal Resolution

- May be offered at any time before determination.
- Requirements:
 - Written notice of allegations + process.
 - Parties' voluntary written consent.
 - Right to withdraw and resume formal process.
- Limit: Not available where employee is alleged to have harassed a student.
- Examples: mediation, restorative conferences.

I. Other Considerations

- Maintain records for 7 years:
 - Investigations (complaints, reports, evidence, determinations).
 - Supportive measures taken.
 - Training materials.
- Retaliation prohibited.
- Document each step taken with letters to the parties or internal memoranda.
- Cannot promise confidentiality to parties and witnesses.

II. Title IX Team Role & Responsibilities

A. Title IX Coordinator

- Coordinates Title IX compliance and training
- Conducts intake meeting with Complainant
- Offers supportive measures to Complainant & Respondent
- Explains grievance process, accepts formal complaint & determines mandatory dismissal
- Evaluates emergency removal
- Evaluates use of informal resolution process
- Assigns unbiased investigator free from conflicts
- Sends notices (e.g., Notice of Allegations)

- Considers permissive dismissal of complaint

B. Investigator

- Neutral factfinder:
 - Not advocate for either side.
 - Be conscious of explicit and implicit bias.
 - Respondent is presumed not responsible until determined to be responsible.
- Ensure due process: both parties treated equally.
- Information collection:
 - Interviews of complainant, respondent, witnesses.
 - Physical evidence: texts, emails, social media, school records.
 - Burden of proof is preponderance of evidence (50.01%)
- Trauma-informed interviewing:
 - Expect fragmented memory, non-linear recall.
 - Avoid victim-blaming questions but also avoid sentiments such as “I’m sorry that happened to you.”
- Credibility: based on corroboration, consistency, plausibility, demeanor (but avoid stereotypes).
- Prepares draft and final investigative reports, summarizing disputed and undisputed facts.
- Does not determine responsibility; that is reserved for the decision-maker.

C. Decision Maker

- Reviewing the Final Investigative Report: Examine the report thoroughly to identify any missing or incomplete information.
- Facilitating Written Questions: Allow parties to submit relevant written questions to each other and to witnesses.
- Evaluating Evidence: Assess all evidence, identify disputed issues, and weigh the credibility of information presented.
- Making Determinations: Conclude whether the alleged conduct occurred and determine responsibility.
- Preparing Written Determinations: Document findings of fact, policy conclusions, and rationale for each allegation.
- Recommending Sanctions and Remedies: If applicable, suggest appropriate sanctions for the respondent and remedies for the complainant.
- Communicating Outcomes: Provide the written determination and information about appeal rights to both parties simultaneously.

D. Appeal Officer

- If an appeal is filed, the Appeal Officer evaluates the appeal request(s) to determine if within the scope of appeal
- Provides a written Notice of Appeal to both parties
- Reviews both written statements and argument from the parties
- Renders written decision on appeal and explains rationale for the result
- Provides the written decision to parties at same time

E. Informal Resolution Process Facilitator

- (Could be an outside trained mediator or trained restorative justice facilitator)
- Obtains voluntary, written consent of the parties to resolve the matter anytime before a determination of responsibility is made (Cannot require the parties to participate in informal process or to waive the right to an investigation)
- Issue written notice to the parties disclosing the allegations, the requirements of the process, and notice that the parties can withdraw and resume the grievance process
- Process cannot be used where an employee is alleged to have sexually harassed a student