Title IX Appeal Officer Training for K-12 Districts and COEs

October 20, 2026

Presented by:

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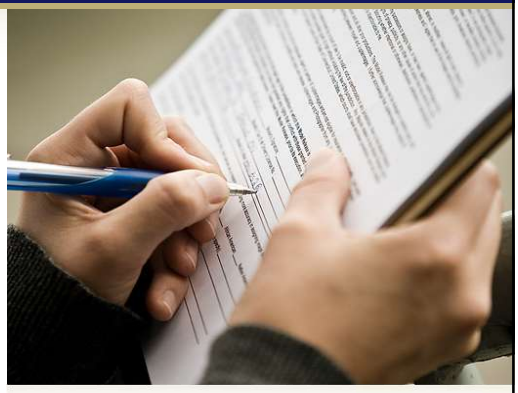
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Agenda

- Legal Update
- Review Appeal Officer Role on Title IX Team
- Review Title IX Regulations: Scope and Definitions
- Appeal Procedures
- Reminders
- Hypothetical and Practical Application



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Current Legal Landscape of Title IX: *Nationwide*

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Title IX – LEGAL UPDATE

- *August 2020* – 2020 Title IX Regulations go into effect
- *August 1, 2024* – 2024 Title IX Regulations go into effect
- *January 9, 2025* – *Cardona* Decision (Vacatur of 2024 Title IX Regulations)
- *January 20, 2025* – E.O. 14168: "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"
- *January 31, 2025* – DCL confirmed the return to 2020 Title IX Regulations
- *February 4, 2025* – Second DCL confirmed return to 2020 Title IX Regulations
- *February 5, 2025* – E.O. 14201: "Keeping Men Out of Women's Sports"
- *February 12, 2025* – U.S. Dept. of Ed. Office for Civil Rights (OCR) opened an investigation into the California Interscholastic Federation (CIF)
- *July 9, 2025* – U.S. Dept. of Justice filed a civil lawsuit against CIF and CDE

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APPEAL OFFICER ROLE ON TITLE IX TEAM

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Who's on the Title IX Team?

1. Title IX Coordinator, per § 106.8(a)
2. Investigator(s)
3. Decision Maker(s)
4. Appeal Officer Decision Maker (s)
5. Informal Resolution Process Facilitator(s)

– ***All team members must be impartial, unbiased, and free from conflicts.***
– ***All team members must be trained in the Title IX Regulations.***

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Title IX Team: Appeals Officer

Appeal Officer Role:

- Implements the right to appeal for both parties based on three grounds for appeal
- If an appeal is filed, evaluates the appeal request to determine applicability
- Provides a written Notice of Appeal to both parties
- Reviews NOA, Final Investigative Report, and Decision(s)
- Elicits and reviews written statements and arguments from both parties
- Renders written decision on appeal and explains rationale for the result
- Provides written decision to parties at same time

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TITLE IX SCOPE AND DEFINITIONS

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Federal Law - Title IX:

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.

(Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.) and related regulations (34 C.F.R. Part 106).)

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The 2020 Title IX Regulations

1. **Regulations and Guidance**
   - Text of regulations contained in ***34 CFR Part 106*** have the full force and effect of law as of August 14, 2020
2. **Overall Intent of Changes**
   - Strengthen/clarify Title IX protections for sexual misconduct Complainants and provide due process protections to Respondents facing accusations of sexual misconduct
3. **Scope Under Title IX Regulations**
   - Amended sexual harassment definitions, clarified jurisdiction, and confirmed that Title IX sex discrimination includes sexual harassment and other sexual misconduct
4. **K-12 Educational Institutions**
   - February 2020 OCR Enforcement Initiative to combat sexual assault in K-12 schools

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Response to Sexual Harassment

According to **34 CFR § 106.44(a):** A recipient with **actual knowledge** of sexual harassment in an education program or activity of the recipient against a person in the United States must **respond promptly in a manner that is not deliberately indifferent** (e.g., clearly unreasonable in light of the known circumstances).

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Actual Knowledge

- Actual knowledge for **K-12 Educational Institutions** occurs when ***any employee*** has notice of sexual harassment or allegations of sexual harassment.
- Best practice to provide annual training to K-12 employees about reporting responsibilities to the Title IX Coordinator or other designated Title IX Team Member.

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Education Program or Activity

- Per **§ 106.44(a):** An education program or activity includes locations, events, or circumstances over which the recipient exercised ***substantial control over both the Respondent and the context*** in which the sexual harassment occurs….
- At time of filing the formal complaint, the Complainant must be ***participating or attempting to participate*** in recipient's education program or activity.
- **Application to Appeals**: A party may appeal a Title IX Coordinator's dismissal of a formal complaint, or an allegation in the complaint.

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Sexual Harassment Defined

According to **§ 106.30,** Sexual Harassment means conduct on the ***basis of sex*** under one or more of following:

1. Quid Pro Quo Harassment

- **Employee** conditions the provision of an aid, benefit, or service of the recipient on the Complainant's participation in unwelcome sexual conduct

2. Hostile Environment Sexual Harassment

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

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Sexual Harassment Defined, Cont.

Conduct on the ***basis of sex*** also includes ***other sexual acts*** including one or more of the following:

- **Sexual assault** per 20 U.S.C. 1092(f)(6)(A)(v): Includes Forcible and Nonforcible Sex Offenses
- **Dating violence** per 34 U.S.C. 12291(a)(10)
- **Domestic violence** per 34 U.S.C. 12291(a)(8)
- **Stalking** per 34 U.S.C. 12291(a)(30)

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Sexual Harassment Defined, Cont.

3. **Sexual Assault**
   - **Forcible:**
     - Any sexual act directed against Complainant, forcibly, against Complainant's will, or without consent, including rape, sodomy, sexual assault with an object, and fondling
   - **Nonforcible:**
     - Offenses that do not involve force where the Complainant is incapable of giving consent, including statutory rape and incest

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Sexual Harassment Defined, Cont.

4. Dating Violence (34 U.S.C. 12291(a)(10))

- Violence (on the basis of sex) committed by a Respondent:
  - who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
  - 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

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Sexual Harassment Defined, Cont.

5. Domestic Violence (34 U.S.C. 12291(a)(8))

Felony or misdemeanor crimes of violence (on the basis of sex) committed by:

- A current or former spouse or intimate partner of the Complainant
- A person with whom the Complainant shares a child in common
- A person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner
- A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- 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 the jurisdiction.

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Sexual Harassment Defined, Cont.

6. Stalking (34 U.S.C. 12291(a)(30))

The term "stalking" means engaging in a course of conduct (on the basis of sex) directed at a Complainant that would cause a reasonable person to:

- **Fear** for their safety or the safety of others; or
- Suffer substantial **emotional distress**

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APPEAL PROCEDURES

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Appeal Rights

Both parties must be offered an appeal from a determination regarding responsibility, dismissal of a formal complaint or any allegations therein, on the following bases: procedural irregularity, new evidence, or conflict of interest or bias.

Summarized from 34 C.F.R. Part 106, §106.45(b)(8)

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Appealable Decisions

Under the Title IX regulations, only certain decisions can be appealed:

1. A decision to **dismiss a complaint**, whether it is a mandatory dismissal or a permissive dismissal
2. A decision to **dismiss one or more allegations** within a complaint (but not the whole complaint)
3. A decision to fully or partially remove a Respondent via **Emergency Removal**
4. The **decision** after the Title IX complaint process, which includes whether the Respondent is **responsible** for sexual harassment or whether the Respondent is ***not* responsible** for sexual harassment

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Types of Appeal

1. Appeal of a Mandatory (Required) Dismissal
2. Appeal of a Permissive Dismissal
3. Appeal of an Emergency Removal Decision
4. Appeal of a Decision Appeal

**** Reminder – each of these appeal types must include one or more of the proper grounds for the appeal.***

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Mandatory Dismissal of Formal Complaint

- **Required Dismissal per § 106.45(b)(3)**
  - **Recipient must dismiss the formal complaint *if* the conduct alleged:**
    - Would not constitute sexual harassment as defined in § 106.30 even if proved
    - Did not occur in the recipient's education program or activity
    - Did not occur against a person in the United States
  - Such dismissal does **not** preclude action under another provision of recipient's Code of Conduct, Board Policy/Administrative Procedure, or California law

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Permissive Dismissal of Formal Complaint

- **Permissive Dismissal per §106.45(b)(3)**
  - **Recipient may dismiss the formal complaint or allegations any time during the investigation or hearing, *if*:**
    - The Complainant notifies the Title IX Coordinator in writing to withdraw the complaint
    - The Respondent is no longer enrolled or employed
    - Special circumstances prevent the recipient from gathering evidence in order to reach a determination
- **Note:** All dismissals require written notice and reasons, including the right to appeal, delivered to the parties at the same time

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Appeal of Emergency Removal Decision

1. Institution may remove Respondent per § 106.44(c) by undertaking an individualized safety & risk analysis of Respondent:
   - The analysis determines if there is an ***immediate threat to the physical health or safety*** of any student or other individual arising from the allegations to justify removal
2. Notice to Respondent of Emergency Removal and opportunity to challenge decision immediately following the removal
3. Process ***cannot*** modify Respondent rights under IDEA, Section 504, or ADA

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Grounds for Appeal of Determination of Responsibility

1. **Procedural irregularity** that affected the outcome of the matter
2. **New evidence** that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
3. The Title IX Coordinator, investigator(s), or decision-makers(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

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Reasons for Allowing Appeals

1. **To ensure the procedures were followed to a fair result**, including procedures involving the investigation, the "cross examination" opportunity, and the decision
2. **To ensure that any new evidence** that was not reasonably available at the time of the decision can be considered, if it could affect the outcome of the matter
3. **To ensure that bias, partiality, or a conflict of interest** (if any) of the Title IX Coordinator, the investigator, or the decision maker did not affect the outcome of the matter

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Did Procedural Errors Affect the Outcome?

- **Investigator Responsibilities per § 106.45(b)(5):**
  - Investigator must thoroughly gather evidence
  - Investigator cannot access, consider, disclose, or use a party's privileged records without receiving voluntary, written consent from the party and/or parent (e.g., physician, psychiatrist, psychologist, counselor, or other recognized professional assisting in that capacity)
  - Investigator must provide equal opportunities to the parties, written notice of the interviews, allow the presence of advisors, allow gathering evidence and witnesses, provide review of the directly related evidence, and create a report that fairly summarizes the relevant evidence for the parties' review

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Did Procedural Errors Affect the Outcome?, Cont.

Decision Maker Determines Responsibility per § 106.45(b)(7):

- When determining responsibility, decision makers must:
  - Apply the standard of evidence (e.g., "preponderance of evidence")
  - Fairly implement a "written cross-examination" process for the parties by allowing relevant questions
  - Determine if the Respondent is "responsible" or "not responsible" for sexual harassment
  - Be unbiased, impartial, and not have a conflict of interest
  - Prepare a thorough written determination including findings of fact, conclusions, and the rationale

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Steps During Appeal

1. **Appeal Request Initiated:** The Complainant and/or Respondent submit a written appeal to the Title IX Coordinator, who assigns an Appeal Officer
   - The Appeal Officer cannot be the investigator, decision maker, and/or the Title IX Coordinator in the present matter; the Appeal Officer must be unbiased, impartial, and free from a conflict of interest in the matter being appealed, and the Appeal Officer must be trained in the Title IX regulations
2. **Notification:** The Appeal Officer will notify all parties in writing of the appeal and offer both parties the opportunity to submit a written statement in support of, or challenging, the outcome

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Steps During Appeal, Cont.

3. **Review Information:** The Appeal Officer will review the appeal, any written statements submitted by the parties, as well as the Notice of Allegations, the Final Investigative Report (with attachments), the written cross-examination process, and the written determination
   - If needed, the appeal officer can ask questions of the Investigator, Title IX Coordinator, and/or Decision Maker(s)
   - The Appeal Officer may conduct limited interviews with the parties or witnesses as necessary for clarification, but should avoid re-doing the investigation or cross-examination process.
4. **Issue a Written Decision Simultaneously to Both Parties:** The written appeal decision must describe the result of the appeal and the rationale for the result

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PRACTICAL APPLICATION & OTHER CONSIDERATIONS

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Practical Considerations

1. Understand the **equitable participation** of each party in the appeal process
2. Understand the **value of deference and narrow appeals**
3. Do not second-guess the decision; while you may not have reached the same decision being appealed, you must show **deference** to the decision **unless there is a clear problem that affected the outcome**
4. Do not provide a new review of all the evidence or hold **a "*de novo*" hearing**
5. Make an independent and impartial determination on appeal
6. Use the **preponderance of the evidence standard** when making a decision
7. Maintain the **limited grounds** for appeal

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Best Practices with Appeals

- **Explain your rationale**
  - Why are you rejecting or upholding the appeal?
- **Remand as a Remedy**
  - If you agree with an issue on appeal, the most common remedy will be to remand the matter back to the appropriate level to be corrected
    - If the investigation is incomplete and additional relevant evidence may alter the outcome, consider sending it back for further investigation
    - If the decision did not apply the preponderance of the evidence standard or was unclear, consider sending it back for clarification

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Hypothetical Discussion

On or about August 21, 2025, Respondent tutored Complainant after school in the library. Respondent put a hand on Complainant's knee, made comments about sexual acts, and then touched Complainant's groin area. When Complainant moved away, Respondent moved towards Complainant. Complainant immediately left the library.

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Title IX Process Dismissal Appeal Scenarios

1. Scenario One: Respondent withdraws from the District. District dismisses from Title IX. Complainant appeals.
2. Scenario Two: The incident occurred at a public library. District dismisses from Title IX. Complainant appeals.
3. Scenario Three: The incident occurred in the library but during an after-school program that is run by an outside agency. District dismisses from Title IX. Complainant appeals.

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Appeal of Emergency Removal Decision Scenarios

- Scenario One: Complainant reports that they are uncomfortable with Respondent remaining on campus. The Title IX Coordinator issues Respondent a notice of emergency removal and assigns Respondent to independent study. Respondent appeals.
- Scenario Two: Respondent and Complainant are both on the track team. Respondent tells other students Respondent was going to "get even" with Complainant for filing a complaint and sends Complainant messages via Snapchat stating the same. The Title IX Coordinator issues Respondent a notice of emergency removal and informs Respondent they cannot attend track practice or meets pending the outcome of the investigation. Respondent appeals.

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Appeal of Determination of Responsibility Scenarios

1. Scenario One: The Investigator sent copies of the report electronically, and Respondent could not access the draft report for several days. Respondent asked but the Investigator declined to give the Respondent more time to review the draft report. Respondent appeals asserting procedural irregularity.
2. Scenario Two: Complainant asserts she just learned that Respondent lives in the same neighborhood as the Decision Maker and that the Decision Maker and Respondent's mother "socialize." Complainant files an appeal asserting the Decision Maker was biased.
3. Scenario Three: Respondent asserts that a friend was in the library and has footage of Respondent's interaction with Complainant. Respondent's friend just informed Respondent that she stumbled across the video while clearing pictures from her cell phone. Respondent appeals citing new evidence.

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REMINDERS

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Reminders

1. **Recordkeeping:** For each response required under § 106.44, a recipient must create and maintain records for 7 years
2. **Retaliation: Section 106.71(a) – Retaliation Prohibited**
   - No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing
   - *Avoiding the Title IX Process May Be Retaliation* - If the alleged behavior falls under § 106.30 definitions, a recipient cannot use the student conduct process as a way to avoid the rigorous Title IX grievance procedures; such a decision may constitute retaliation

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Reminders, Cont.

3. **Confidentiality Required by Recipient**
   - Recipient must keep identity of the Complainant, Respondent, and witness(es) confidential unless required by law "or as necessary to carry out Title IX proceeding"
   - Regulations imply that the improper release of this confidential information could be retaliation
4. **First Amendment Rights**
   - Parties exercising their 1st Amendment rights does not constitute retaliation under § 106.71(a)
5. **False Statement Charge**
   - Recipient charging an individual with making a false statement in bad faith during Title IX process is ***not*** retaliation
   - A responsibility determination (or no responsibility determination) is not sufficient evidence to conclude there was a bad faith false statement

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Question & Answer Session

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Thank You

For questions or comments, please contact:

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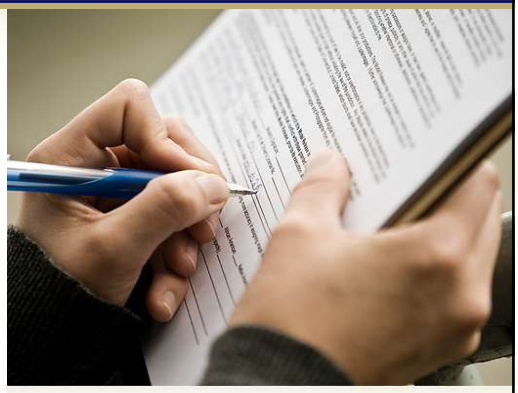
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My years of experience as a public agency Chief Human Resources Officer gives me a unique perspective as a lawyer to empathize with my clients' challenges and to work toward practical solutions.

DeAnna L. Solina provides labor and employment services to AALRR's Northern California education law clients, particularly in the areas of disability and reasonable accommodations, leave requirements, wage and hour requirements, contracts, layoffs, employee evaluation and discipline, dismissal and termination proceedings, discrimination complaints, and investigations of employee misconduct. She is based in our Sacramento office.

Prior to joining AALRR, Ms. Solina served as Vice President of Human Resources at San Joaquin Delta College for more than three years. Prior to that, she served the City of Stockton for more than 12 years — first as the Deputy City Attorney, then as Director of Human Resources.

Firm News

AALRR Announces 2025 Partner Promotions
01.13.2025

Events & Speaking Engagements

- The Art and Science to Implementing Paid Administrative Leave – ACHRO Conference (10.25.24)
- Tips to Comply with the New Workplace Violence Standard – ACHRO Conference (10.22.24)

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- A Deeper Dive Into Paid Administrative Leave - ACSA Conference (9.27.24)
- Discrimination Complaints and Investigations – ACHRO Academy (6.6.24)
- *New* Title IX Changes – ACHRO Academy (6.5.24)
- How to Be a Successful Manager of Remote Employees – ACBO Conference (5.21.24)
- A Practical Approach to Negotiation Preparation in Community College – AALRR Shell Beach Conference (4.11.24)
- Artificial Intelligence is Here: Impacts in Higher Education – AALRR Shell Beach Conference (4.10.24)
- Let's Give Em Something to Chat GPT About! - ACCCA Conference (2.22.24)
- Management and Leadership Series - City College of San Francisco (2024)
- Implementing Employment Practices that Support Cultural Competence in the Workplace – Stockton Ed. Law Conference (11.29.23)
- The Future of Remote Employees: How to be a Successful Manager of Remote Employees – ACHRO Conference (10.18.23) & CCLC Conference (11.16.23)
- Let's Give 'Em Something to Chat GPT About! - ACHRO Conference (10.18.23) & CCLC Conference (11.16.23)
- Advanced Frisk - WACUBO Conference (8.9.23)
- How to Be Successful in Managing a Dual Workforce - WACUBO Conference (8.9.23)
- How to Read a DOJ Fingerprint Report & Background Checks - San Joaquin County Office of Education (4.26.23)
- The Future of Remote/Hybrid Work - Higher Ed. Conference at Seal Beach (4.16.23)
- Managing and Understanding Millennials and Gen Z - ACCCA Conference (2.23.23)
- New Campus Climate & Public Safety in the Community College - Risk Management Consortium (1.19.23)
- Form 700 Reporting Requirements – San Joaquin County Office of Education (1.12.23)

Leaves of Absence
Student Discipline
Title IX
Workplace Training

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- Campus Climate and Community Policing Webinar (11.29.22)
- Making the Interactive Process a Success: Leaves of Absence, Telework and Other Reasonable Accommodation (ACHRO Conference, 10.26.22)
- FERPA and Other Student Records Confidentiality Laws and the Public Records Act – (Lincoln Unified School District, 10.11.22)
- Making the Interactive Process a Success (Part 1): Tips for Effective Communication and Problem Solving when Employees Request Accommodation (9.8.22)
- Campus Climate and Public Safety Principles – Is your District Ready (8.31.22)
- Title IX Compliance, Investigator, Decision Maker, and Appeal Officer Training for SJCOE (8.10-12.22)

2026 Education Law Conference | Sacramento
Embassy Suites by Hilton Sacramento Riverfront Promenade, 11.16.2026

2026 Title IX Training Academy K12 - Single Session
At Your Desk (Via Zoom), 09.28.2026

2026 Title IX Training Academy for Higher Education Institutions
At Your Desk (Via Zoom), 09.28.2026

Alerts & Articles

Assembly Bill 1041 Expands the Category of Individuals for Whom an Employee May Take Leave Under Various California Laws
10.14.2022

Title 5 Amendments for Campus Climate and Public Safety Requirements – Is Your Campus Ready?
10.12.2022

California's AB 152 Extends COVID-19 Supplemental Paid Sick Leave Through 2022
10.02.2022

Blog Posts

Responsible AI Usage in Higher Education: Governance, Academic Integrity, and Fraud/Compliance Risks
EdLawConnect Blog, 09.03.2026

Community & Professional

- California Council of School Attorneys, Member
- United Way of San Joaquin, Executive Board Member 2016 - 2024

DeAnna L. Solina

- St. Andrews Lutheran Church, Past President & Board Member 2021 - 2025
- San Joaquin County Mock Trial Judge 2023, 2024, & 2025

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Katherine Linggi represents educational institutions and school districts in all aspects of labor and employment and general educational law matters. Ms. Linggi provides advice and counsel and conducts prompt, thorough, and impartial investigations regarding allegations of discrimination, harassment, retaliation, bullying, employee misconduct, hostile work environment, and Title IX violations. She also routinely advises in a wide variety of areas of education law and labor and employment law compliance.

Ms. Linggi has specific experience in the area of Title IX. Her training includes conducting investigations for institutions of higher education in compliance with California Law and federal regulations. Ms. Linggi is also trained in trauma informed investigation strategies. She facilitates informal resolution of Title IX matters and other complaints and serves as a school-appointed mediator and advisor in Title IX matters.

Events & Speaking Engagements

2026 Title IX Training Academy for Higher Education Institutions | 08.28.26

2026 Title IX Training Academy K12 | 08.11.26

An Administrator's Guide to Investigations for Educational Institutions | 07.22.26

Community & Professional

- Association of Workplace Investigators, Certified Workplace Investigator
- National Association or College and University Attorneys, Member
- Women Lawyers of Sacramento, Member

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