The Title IX Informal Resolution Process

October 27, 2026

Presented by:

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aalrr Title IX

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Cerritos • Fresno • Irvine • Marin • Pasadena • Pleasanton • Riverside • Sacramento • San Diego

0

Agenda

- The Law
- The Purpose
- The Process (Complaint, Notice, Consent)
- The Methods (Supportive Measures, Accepted Responsibility, Alternative Resolution)
- The Impacts (Results, Timing, Recordkeeping, Confidentiality)

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1

1

THE LAW: TITLE IX & INFORMAL RESOLUTION

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2

2

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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3

3

Federal Law – Informal Resolution

At any time prior to reaching a determination regarding responsibility the recipient may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication…

(34 C.F.R. Part 106.45(b)(9).)

4

4

INFORMAL RESOLUTION OFFICER/ FACILITATOR REQUIREMENTS

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5

Requirements for Informal Resolution Officers/ Facilitators

- Any individual designated to facilitate an informal resolution process may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- They must receive training on the definition of sexual harassment in § 106.30, the scope of the district's education program or activity, and how to conduct an informal resolution process.

6

6

Title IX Regulations – Definitions

- Complaint
- Recipient
- Education Program or Activities
- Informal Resolution Training

7

7

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Title IX Regulations – Definition of Complaint

- A "Formal complaint" is defined a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.
  - Best practice to confirm oral request in writing

8

8

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

9

9

Sexual Harassment Defined, Cont.

Conduct on the ***basis of sex*** under one of following:

3. Other Sexual Acts

- **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)

10

10

Title IX Regulations – Definition of Recipient

Recipient means any…public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient ***and*** which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof.

A public school district that receives Federal financial assistance is a **Recipient** and must comply with the 2020 Title IX regulations.

Throughout this training, we use **District** instead of Recipient.

11

11

Title IX Regulations – Education Program or Activity

- Per **§ 106.11:** Application of this process applies to conduct that occurs under a District's education program or activity.
  - Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. (on or off campus)
- Per **§ 106.30:** 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 District.

12

12

Title IX Training Requirements for Informal Resolution

- Facilitators of Informal Resolution must also be trained on the rules and practices associated with the District's informal resolution process and on how to serve impartially, including avoiding conflicts of interest and bias.
  - *Impartial*- You are able to make a decision based on evidence without prejudging;
  - *Unbiased*- You do not have general or specific opinions/feelings favoring one side or the other based on their role as Respondent or Complainant or based on protected characteristics;
  - *Free from conflicts*- You do not have any reason to make a finding to protect someone or to fulfill a personal or professional goal.

13

13

PURPOSE OF INFORMAL RESOLUTION

14

Purpose of Informal Resolution

- To **eliminate** the prohibited conduct, **prevent** its recurrence, and **remedy** its effects in a manner that meets the needs of the Complainant while maintaining the safety of the campus community.
- To **empower** the parties by offering alternative conflict resolution systems that may serve their unique needs and provides greater flexibility to recipients in serving their educational communities.
- To **identify and repair harm** in the community, restore wellness, and promote communication, engagement, and cooperation.

15

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INFORMAL RESOLUTION PROCESS

16

When to use informal resolution

- Informal Resolution is not a required process that recipients must offer to the parties, nor does it need to be fulfilled prior to starting the formal grievance process.
- If the parties agree, a recipient may decide to offer Informal Resolution depending on if personnel are trained and the Title IX Coordinator thinks the process can be successful for the situation.
- Informal Resolution is left undefined for recipient schools to use their discretion in adopting a process.
- Informal Resolution **is not** available for instances in which sexual harassment allegations are made by a student against an employee.

(§ 106.45(b)(9)(iii).)

17

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Restrictions on IR

- A district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment…
- A district may not require the parties to participate in an IR process under Title IX and may not offer an informal resolution process unless a formal complaint is filed.

18

18

Requirements of Informal Resolution

1. Formal Complaint
2. Written Notice
3. Voluntary, Written Consent
4. Methods

19

19

Formal Complaint

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. **(§ 106.30(a).)**

– Complainant must be participating in or attempting to participate in the education program or activity of the recipient.

– Complaint may be filed with the Title IX Coordinator in person, by mail, or electronically.

A formal complaint is required per **§ 106.45(b)(9)** to prevent any avoidance of the formal process and pushing of informal resolution by the District.

20

20

Written Notice of **Formal Grievance** Process

- The District's formal grievance process and informal resolution process.
- The allegations of sexual harassment.
  - Must include sufficient details: identities of the parties, conduct alleged constituting sexual harassment, date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and a determination of responsibility is made at the conclusion of the grievance process.
- The option for the parties to have an advisor of their choice who may be or not an attorney.
- Any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

21

21

Written Notice of Informal Resolution Process

The District must provide to the parties written notice including:

- The allegations,
- The requirements of the Informal Resolution process,
  - Including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations
- The ability for any party to withdraw from the Informal Resolution process and resume the grievance process at any time prior to resolution,
- The possible consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared. **(§ 106.45(b)(9)(i).)**

22

22

Voluntary, Written Consent

The District must obtain both parties' voluntary, written consent to the IR process. **(§ 106.45(b)(9)(ii).)**

23

23

Methods

- 3 processes can be incorporated by Districts to establish their Informal Resolution process:

1. Supportive Measures

2. Accepted Responsibility

3. Alternative Resolution

24

24

SUPPORTIVE MEASURES

25

25

Supportive Measures

1. Requirement to Offer Supportive Measures per §106.30 & §106.44

– Must be offered to Complainant as soon as District has notice of possible Title IX issue and to Respondent after complaint filed**

2. Avoid Burden on Parties

– Supportive Measures must be **non-punitive, non-disciplinary**, and not unreasonably burdensome to the other party

– Offered without fee or charge to either party

3. Individualized

– Supportive Measures must ensure or restore equal educational access, protect safety, and/or deter sexual harassment

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26

Examples of Supportive Measures

- Counseling,
- Extensions of deadlines or other course-related adjustments,
- Modifications of work or class schedules,
- Campus escort services,
- Mutual restrictions on contact between the parties, changes in work or housing locations,
- Leaves of absence,
- Increased security and monitoring of certain areas of the campus.

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27

ACCEPTED RESPONSIBILITY

28

Accepted Responsibility

- The Respondent accepts responsibility for violating policy and accepts the recommended sanction(s) ending the Resolution Process.
- The Title IX Coordinator, Complainant, and Respondent all agree to the sanction(s) imposed.
- The prior discipline history for the Respondent may be considered if the district uses a progressive discipline model. There is no appeal process if all parties come to an agreement.

29

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ALTERNATIVE RESOLUTION

30

Alternative Resolution

- The parties agree to resolve the complaint through an alternative resolution mechanism.
- This may or may not result in a formalized agreement.
- This may allow the parties to communicate directly or indirectly about the complaint with the assistance of a third-party facilitator.

Goal: to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to repair harm.

31

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Possible Modalities

- Conflict Coaching
- Facilitated Dialogue
- Restorative Circle or Conference
- Shuttle Negotiation/Resolution
- Community Supported Accountability Circle

32

32

Example of Alternative Resolution: **Conflict Coaching**

- A party works one-on-one with a trained facilitator to discuss an incident or conflict and explore strategies for addressing it with the other party.
- This may include role playing practice.

33

33

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Example of Alternative Resolution: Facilitated Dialogue

- All parties engage in a direct, facilitated conversation about the incident or conflict with the assistance of a trained facilitator.
- Focus is on providing a space and framework for communication
- Community members may be present.

34

34

Example of Alternative Resolution: Restorative Practice Conference or Circle

- May take the form of conferencing or an exchange of statements, or a circle that includes members of the community.
- A proxy may participate in the place of an impacted party.
- Focus on identifying the harm, taking accountability for the harm, and determining how best to repair the harm.

Respondent must take accountability for causing the harm.

35

35

Example of Alternative Resolution: Shuttle Negotiation

- Third-party facilitator acts as a go-between for the parties to negotiate a resolution.
- Often takes several conversations with each party before a resolution is reached.
- Focus on meeting expressed needs to work towards creating an agreement to repair harm.

36

36

Example of Alternative Resolution: Circles of Support & Accountability

- Longer-term process focused on successful community reintegration after a Respondent has committed a violation.
- Circle supports the Respondent to provide emotional support, develop constructive and pro-social strategies to prevent future harm, and to challenge the behaviors and attitudes that may be associated with the harmful behavior.
- Does not require participation from the Complainant.

37

37

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TIMING OF INFORMAL RESOLUTION

38

Timing of Informal Resolution

- **§ 106.45(b)(1)(v)** requires recipients to include ‘‘reasonably prompt time frames’’ in the recipient’s grievance process, rather than simply ‘‘providing for prompt’’ resolution.
- The time frames designated by the recipient must account for conclusion of the entire grievance process, including appeals and any informal resolutions processes.
- Thus, no avenue for handling a formal complaint of sexual harassment is subject to an open-ended time frame.

39

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Timing of Informal Resolution

Any delays or extensions of the recipient's designated time frames must be "temporary," "limited," "for good cause," and the recipient must notify the parties of the reason for any such short-term delay or extension.

- "Good cause": the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

40

40

RESULTS & RECORD KEEPING

41

41

Result of Informal Resolution

- Written Agreement
  - Agreement must be documented and approved by the district's Title IX Coordinator.
  - Agreement is treated like a binding contract.
  - Agreement must be provided to both parties simultaneously.
  - Sanctions: Expulsion (or other forms of discipline) is not precluded if IR is used instead of the formal grievance process.

42

42

After the Agreement

- Disciplinary process will be concluded, the matter is closed, and both Parties will be provided with written notice of the resolution.
- There is **no possibility for appeal** once the parties come to an agreement.
- Neither party can request a formal investigation of the same matter.

43

43

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Record Keeping & Publishing

- Recipient must **maintain records** of the IR process as well as documentation of sexual harassment reports, formal complaints, investigations, and adjudications for a period of **seven years**. **(§ 106.45(b)(10)(i)(C).)**
- Recipient must **publish materials** used for training Title IX Coordinators, investigators, decision-makers, and persons who facilitate IR on the recipient's website or make these materials available upon request for inspection by members of the public.

44

44

CONFIDENTIALITY

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Confidentiality: Complaint & Complainant

- All **complaints** or allegations of discrimination or sexual harassment will be kept confidential during any informal and/or formal complaint procedures except when disclosure is necessary during the course of an investigation, in order to take subsequent remedial action and to conduct ongoing monitoring. (**Cal. Code Regs., tit. 5, § 4964.)**
- General rule: A recipient must keep confidential the **identity** of any person who has reported sexual harassment, or who has been reported to be a perpetrator of sexual harassment. The purpose of this provision is to prevent the school from retaliating against anyone. **(§ 106.71(a).)**

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46

Confidentiality: Resulting Agreements

- All campus or school proceeding **records** are fairly easily subpoenaed and admissible in a subsequent criminal proceeding. Thus, a respondent's admission of a campus violation could result in a criminal conviction, as well.
  - For school officials to share information with external police, they would typically expect a subpoena unless a health or safety emergency was present. Many institutions have memoranda of understanding (MOUs) with local police regarding the details of cooperation, non-interference, information sharing, etc.

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47

Confidentiality

- Exceptions: **(§ 106.71(a).)**
  - If disclosure is permitted under FERPA;
  - If disclosure is required by law; or
  - If disclosure is necessary to carry out the purposes of Title IX and its regulations, including to conduct a grievance process.

48

48

SUMMARY

49

49

Title IX Team: Informal Resolution Process Facilitator

Informal Resolution Process Facilitator Role:

- Cannot require the parties to participate in informal process or to waive the right to an investigation
- Obtains voluntary, written consent of the parties to resolve the matter anytime before a determination of responsibility is made
- Process does not involve full investigation or adjudication, but includes a 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
- May consider the use of a trained mediator or trained restorative justice facilitator, if requested and appropriate
- Process cannot be used where an employee is alleged to have sexually harassed a student

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Question & Answer Session

51

Thank You

For questions or comments, please contact:

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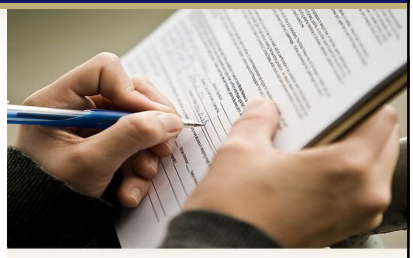
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Karen Bell brings 30 years of legal and human resources experience to AALRR's Southern California Education Law Practice Group. Ms. Bell started her legal career at AALRR. She went on to serve as the Title IX Officer and then counsel for the University of California, Irvine. She later served as the Chief Human Resources Officer for the Superior Court of California, County of Orange. Ms. Bell has conducted and supervised hundreds of discrimination, harassment, and bullying cases, always with care for the rights of all parties. She conducts investigations involving students, staff, and faculty and serves as a Title IX decision-maker. She is specially trained in conducting hazing investigations as well as facilitating restorative practices in cases involving sexual harm.

Ms. Bell's work in diversity, equity, inclusion, and belonging extends beyond the realm of investigations. She has served as a volunteer mediator for discrimination-related cases and as a member of the California State Bar Ad Hoc Commission on the Discipline System, which was charged with developing recommendations to ensure that the State Bar's enforcement of professional rules of conduct is fair and effective. She also served as a visiting lecturer at the University of California, Irvine, teaching upper-class seminars on "Gender and the Law." She regularly conducts training in conflict resolution, performance management, and effective supervision. She holds a Society for Human Resource Management-Senior Certified Professional (SHRM-SCP) credential.

Representative Matters

Obtained a published decision in *Governing Board of ABC Unified School District v. Haar* (1994), upholding the termination of a middle school teacher for sexually harassing his students. The Court of Appeal held that the trial court was not required to defer to the findings of the Commission on

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B.A., with distinction, University of Michigan, Ann Arbor

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1993, District of Columbia

PRACTICE AREAS

Clery Act

Discrimination & Harassment

Education

Equity in Education/Office for Civil Rights

First Amendment in Higher Education

Investigations

Labor & Employment Law

Title IX

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Professional Competence and properly exercised its independent judgment in finding the teacher's sexual harassment was immoral and sufficient to warrant dismissal.

Events & Speaking Engagements

Trauma-Informed Interviews and Investigation Techniques

Virtual, 03.17.2027

Alerts & Articles

Anti-Hazing Efforts Required for Academic Year 2025-26

07.23.2025

U.S. District Judge Issues Nationwide Vacatur of 2024 Title IX Regulations while Additional Changes to Title IX are Expected Under the Incoming Presidential Administration

01.14.2025

New Federal Anti-Hazing Law Impacts Colleges and Universities Starting January 1, 2025

01.13.2025

Community & Professional

- Civics Engagement and Outreach Initiative, California Lawyers Association, Chair

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Mellissa Gallegos represents and advises California school districts, community college districts, and county offices of education in all education and employment law matters, including employee evaluation, discipline and dismissal, reasonable accommodation, interactive meetings, and restraining orders. She also assists with California Public Records Act responses; collective bargaining issues; and defending employers against allegations of discrimination with the Civil Rights Department and the Equal Employment Opportunity Commission. Ms. Gallegos' state-wide practice also includes conducting prompt and effective investigations, including complaints of discrimination, harassment and retaliation, including Uniform Complaints, Office of Civil Rights, Title 5, and Title IX investigations for both K-12 school districts and higher education institutions. She also serves as a hearing officer for Title IX hearings.

Ms. Gallegos is the Co-Chair of the AALRR's Women's Leadership Committee. She regularly presents at conferences for state-wide educational organizations, including the California School Board Association (CSBA), the California Latino School Boards Association (CLSBA), the California Association of Latino Superintendents and Administrators (CALSA), the Association of Chief Human Resource Officers/Equal Employment Officers (ACHRO/EEO), and the Community Colleague League of California (CCLC).

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Equal Employment Opportunity Commission
Legal Aid Foundation of Los Angeles

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PRACTICE AREAS

Collective Bargaining & Labor Relations

Contract Enforcement & Collective Bargaining

Mellissa E. Gallegos

Events & Speaking Engagements

Ms. Gallegos has co-presented on topics such as sexual harassment, mandated reporting, and workplace investigations. She has spoken before an audience of over 400 staff and administrators at a district-wide meeting and has presented at ACSA (Association of California School Administrators) Personnel Academy.

Publications

Ms. Gallegos is a contributor to the firm's school law publications.

Community & Professional

- Latina Lawyers Bar Association, Member
- Los Angeles County Bar Association, Member
- Mexican American Bar Association, Member

Education

First Amendment in Higher Education

Title IX

LANGUAGES

Ms. Gallegos is proficient in Spanish.