

West Contra Costa USD | AR 4119.12 Personnel

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 ("Title IX") alleging that a District employee, or when applicable, a job applicant, unpaid intern, volunteer, or individual providing services pursuant to a contract, was subjected to conduct on the basis of sex that satisfies one or more of the following forms of sexual harassment:

1. A District employee conditioning the provision of an aid, benefit, or service of the District on a covered person's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable individual to be so severe, pervasive, and objectively offensive that it effectively denies a covered person equal access to the terms and/or conditions of employment; and/or
3. "Sexual assault" as defined in 20 U.S.C. § 1092 (f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291 (a)(10), "domestic violence" as defined in 34 U.S.C. § 12291 (a)(8), or "stalking" as defined in 34 U.S.C. § 12291 (a)(30).

"Sexual assault" means actual or intentional physical sexual acts against an individual without consent that mapml tan

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If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

Written Decision

1. For filing a complaint with DFEH alleging a violation of Government Code [12940-12952](#), within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code [12960](#) (Government Code [12960](#))
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC [2000e-5](#))
3. For filing a complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC [2000e-5](#))

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights with 180 days from the date of most recently alleged misconduct.

Remedies

When a determination of responsibility for sexual harassment has been made against the respondent, the District shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 C.F.R. § 106.45)

Corrective/Disciplinary Actions

The District shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 C.F.R. § 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Ed. Code § 48900.2, 48915)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law.
2. Parent/guardian conference.
3. Education of the student regarding the impact of the conduct on others.
4. Positive behavior support.
5. Referral of the student to a student success team.
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law.

(cf. 6145 - Extracurricular And Cocurricular Activities)

When an employee is found to have committed sexual harassment or retaliation, the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment And Gender-Based Harassment)

Record-Keeping

The Superintendent or designee shall maintain for a period of seven years a record of the following:

For formal complaints, the District shall maintain record of each Title IX investigation of sexual harassment, including any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom. (34 C.F.R. § 106.45)

Where a Title IX allegation was reported, regardless of whether or not a formal complaint was filed, the District shall maintain a record of any actions, including supportive measures, taken in response to a report or formal complaint, or why it is reasonable that no supportive actions were taken, why the District's response was not deliberately indifferent, and the measures taken that were designed to restore or preserve equal access to the education program or activity.

The Superintendent or designee shall also maintain for a period of seven years all materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The District shall make such training materials publicly available on its web site, or if the District does not maintain a web site, available upon request by members of the public. (34 C.F.R. § 106.45)
