

NOTICE OF EMPLOYEE RIGHTS UNDER TITLE IX

Notice of Employee Rights under Title IX

(34 C.F.R. § 106.8, subd. (b))

Federal Title IX of the Education Amendments of 1972 (“Title IX”), implemented at 34 C.F.R. § 106.31, subd. (a), provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives federal financial assistance. This includes employment at an educational institution.

Relevant here, Title IX requires that school districts take immediate and appropriate action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to Dr. Carrie Nerheim, Director of Student Services/Title IX Coordinator, to the Assistant Secretary for Civil Rights from the United States Department of Education, or both.

Title IX Coordinator

Dr. Carrie Nerheim is the Title IX Coordinator for Orinda Union School District, and can be reached by telephone at (925) 258-6218, by e-mail at cnrheim@orinda.k12.ca.us, and by mail or in person at 8 Altarinda Rd. Orinda, California 94563.

Sexual Harassment Under Title IX

Sexual harassment under Title IX means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the school district conditioning the provision of an aid, benefit or service of the recipient on an individual’s participating in unwelcome sexual conduct (*quid pro quo*);
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 recipient’s education program or activity; 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).

Alleged conduct that does not rise to the level of the sexual harassment under Title IX will be addressed in accordance with other District policies that prohibit sexual harassment and/or sex-based discrimination, or other forms of inappropriate conduct, as is deemed appropriate.

Filing a Title IX Complaint with the District

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone or by e-mail, using the

contact information listed for the District's Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such reports may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

Under Title IX, employee complaints alleging a Title IX violation may be submitted at any time as long as the complainant is participating in, or attempting to participate in the District's education program or activity. However, the District encourages employees to report all potential instances of sexual harassment under Title IX and District policy, regardless of when it occurred, to allow the District to take appropriate steps to address the alleged misconduct. If the complainant is unable to prepare the complaint in writing, administrative staff shall help the complainant to do so. Please note that the length of time elapsed between an incident of alleged sexual harassment, and the filing of a formal complaint, may, in specific circumstances, prevent a recipient from collecting enough evidence to reach a determination, justifying a discretionary dismissal under Title IX.

The District will process all formal complaints in accordance with Title IX and District Board Policy ("BP") and Administrative Regulation ("AR") 4119.11 – Sexual Harassment, and AR 4119.12 – Title IX Sexual Harassment Complaint Procedures, which includes an option for informal resolution for certain matters. Under Title IX, a formal complaint means a document filed by a victim, or signed by the Title IX Coordinator, that alleges sexual harassment against a respondent and requests that the school district investigate the allegation of sexual harassment. Complaints that do not rise to the level of a Title IX complaint will be processed in accordance with BP/AR 4030 – Nondiscrimination in Employment, or any other procedure deemed appropriate.

All investigations will be conducted as confidentially as possible. Upon receipt of any formal complaint, the District will provide all known parties with adequate notice of the District's complaint process and the underlying allegations. During the course of the investigation, the District will provide the complainant and respondent (or "the parties") with an equal opportunity to present witnesses and evidence. The District will not restrict the ability of the parties to discuss the allegations under investigation, and it will allow parties to utilize an advisor of their choice. Prior to the conclusion of the investigation, the complainant and respondent will have the opportunity to inspect and respond to evidence directly related to the allegations in the complaint that was gathered during the course of the investigation. Thereafter, and prior to any final decision being made, the parties will receive a copy of the investigation report that fairly summarizes relevant evidence, and they will have an opportunity to submit written, relevant questions to be asked of the other party. Please note that if a complaint involves an employee in a program that qualifies as a "postsecondary institution" under Title IX, in lieu of submitting written questions, a live hearing with cross-examination of the parties will be conducted in accordance with Title IX. Finally, a determination regarding responsibility will be made and issued to both parties. Under Title IX and District policy, the responding party is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the complaint process.

Any party not satisfied with the final determination will have the option to appeal the final determination, as detailed in AR 4119.12. In addition, a person may file a complaint concerning sexual harassment with the California Department of Fair Employment and Housing (DFEH) and/or with the Equal Employment Opportunity Commission (EEOC). Complaints with DFEH must be filed within three years of the alleged discriminatory acts, unless an exception exists pursuant to Government Code section 12960. Complaints with the EEOC must be filed within 180 days of the alleged discriminatory acts, or within 300 days of the alleged discriminatory act after first filing a complaint with DFEH or 30 days after the termination of proceedings by DFEH, whichever is earlier.

Additional details about procedures for filing a Title IX complaint may be found in AR 4119.12– Title IX Sexual Harassment Complaint Procedures:
<http://www.gamutonline.net/district/orinda/DisplayPolicy/1172578/4>.

Additional Resources

- California Department of Fair Employment and Housing: <https://www.dfeh.ca.gov/Employment/>
- U.S. Equal Employment Opportunity Commission: <https://www.eeoc.gov/sex-based-discrimination>; <https://www.eeoc.gov/sexual-harassment>
- Link to Access Board Policy and Administrative Regulation 4119.11 – Sexual Harassment, Administrative Regulation 4119.12 – Title IX Sexual Harassment Complaint Procedures, Board Policy and Administrative Regulation 4030 – Nondiscrimination in Employment: <http://www.gamutonline.net/district/orinda/DisplayPolicy/1129451/4>