

NOTICE OF STUDENT RIGHTS UNDER TITLE IX

Notice of Student Rights under Title IX

(34 C.F.R. § 106.8, subd. (b); Cal. Ed. Code § 221.61.)

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.

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 the Orinda Union School District, and can be reached by telephone at (925) 258-6218, by e-mail at cnerheim@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 school district 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 also the alleged victim), 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, student complaints alleging a Title IX violation may be submitted at any time that the student is participating in, or attempting to participate in the District's education program or activity. However, the District encourages current and former students to report 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. Additionally, please be aware that the timeline for filing a complaint of sexual harassment or discrimination under California's Uniform Complaint Procedures is six months of the date of the alleged incident, or six months from the date the complainant first obtained knowledge of the facts of the alleged incident (cf. District Board Policy ("BP") and Administrative Regulation ("AR") 1312.3 – Uniform Complaint Procedures.)

The District will process all formal complaints in accordance with Title IX and BP/AR 5145.7 – Sexual Harassment, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures, which includes the option of 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 1312.3 – Uniform Complaint Procedures, or in a manner that is otherwise 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. As detailed in AR 5145.71, 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 a student 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 5145.71.

Additionally, any complainant who is dissatisfied with the District's determination may file an appeal in writing with the California Department of Education within 30 calendar days of receiving the District's final written decision. Complaints made by or on behalf of students may also be filed with the U.S. Department of Education, Office of Civil Rights within 180 calendar days of the date of the alleged discrimination, unless the time for filing is extended by the Office of Civil Rights for good cause shown under certain circumstances.

Additional details about procedures for filing a Title IX complaint may be found in AR 5145.71 – Title IX Sexual Harassment Complaint Procedures <http://www.gamutonline.net/district/orinda/DisplayPolicy/1129728/>.

Student Rights Pursuant to Education Code Section 221.8

In addition to federal law, the California Education code similarly prohibits schools from discriminating against its students on the basis of sex. Education Code section 221.8 provides as follows:

The following list of rights, which are based on the relevant provisions of the federal regulations implementing Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), may be used by the department for purposes of Section 221.6:

- (a) You have the right to fair and equitable treatment and you shall not be discriminated against based on your sex.
- (b) You have the right to be provided with an equitable opportunity to participate in all academic extracurricular activities, including athletics.
- (c) You have the right to inquire of the athletic director of your school as to the athletic opportunities offered by the school.
- (d) You have the right to apply for athletic scholarships.
- (e) You have the right to receive equitable treatment and benefits in the provision of all the following:
 - 1. Equipment and supplies.
 - 2. Scheduling of games and practices.
 - 3. Transportation and daily allowances.
 - 4. Access to tutoring.
 - 5. Coaching.
 - 6. Locker rooms.
 - 7. Practice and competitive facilities.
 - 8. Medical and training facilities and services.
 - 9. Publicity.
- (f) You have the right to have access to a gender equity coordinator to answer questions regarding gender equity laws.
- (g) You have the right to contact the State Department of Education and the California Interscholastic Federation to access information on gender equity laws.

- (h) You have the right to file a confidential discrimination complaint with the United States Office for Civil Rights or the state Department of Education if you believe you have been discriminated against or if you believe you have received unequal treatment on the basis of your sex.
- (i) You have the right to pursue civil remedies if you have been discriminated against.
- (j) You have the right to be protected against retaliation if you file a discrimination complaint.

Additional Resources

- United States Department of Education Office for Civil Rights:
<https://www2.ed.gov/about/offices/list/ocr/index.html>
- United States Department of Education Office for Civil Rights Complaint:
<https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>
- United States Department of Education Office for Civil Rights Contact Information: 1-800-421-3481 or ocr@ed.gov
- California Department of Education Office of Equal Opportunity:
<https://www.cde.ca.gov/re/di/or/oeo.asp>
- Link to Access Board Policy and Administrative Regulation 1312.3 – Uniform Complaint Procedures, Board Policy and Administrative Regulation 5145.3 – Nondiscrimination/Harassment, Board Policy and Administrative Regulation 5145.7 – Sexual Harassment, Board Policy and Administrative Regulation 5145.71 – Title IX Sexual Harassment Complaint Procedures:
<http://www.gamutonline.net/district/orinda/DisplayPolicy/1129728/>