

The following is information regarding your rights and responsibilities regarding filing a Title IX Complaint.

### **Title IX Coordinator Contact Information**

All complaints should be sent to our Title IX Coordinator, who can be reached at:

**Claudia Weintraub  
Director  
River Oaks Academy Charter School  
920 Hampshire Road, Suite X  
Westlake Village, CA 91361  
805-777-7999**

### **Your Rights and Responsibilities Under Title IX**

(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 and athletics offered by River Oaks Academy Charter School (“ROA or the “Charter School”).

(c) ROA does not currently offer any athletic programs. If it does in the future, you have the right to inquire of the athletic director or other appropriate ROA administrator as to the athletic opportunities offered by the Charter 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 of the following:

- Equipment and supplies.
- Scheduling of games and practices.
- Transportation and daily allowances.
- Access to tutoring.
- Coaching.
- Locker rooms.
- Practice and competitive facilities.
- Medical and training facilities and services.
- Publicity.

(f) You have the right to have access to a gender equity coordinator to answer questions regarding gender equity laws. The gender equity officer is the Title IX Coordinator. Please see above for this Coordinator's contact information.

(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. See below for more information regarding how to file a complaint.

(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.

(k) You can find out more information regarding your rights, ROA's responsibilities, and access information on gender equity laws from the following resources:

- California Interscholastic Federation:  
<http://www.cifstate.org/governance/equity/index>
- California Department of Education, Office for Equal Opportunity:  
<https://www.cde.ca.gov/re/di/or/oeo.asp>
- California Department of Education, Gender Equity/Title IX  
<https://www.cde.ca.gov/re/di/eo/genequitytitleix.asp>
- United States Department of Education, Office for Civil Rights:  
<https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/sex-pr.html>

(l) You can find a list of community-based organizations that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying at: <https://www.cde.ca.gov/re/di/eo/>

### **Definition of Discrimination and Harassment on the Basis of Sex Under Education Code Section 230**

Harassment and other discrimination on the basis of sex include, but are not limited to, the following practices:

(a) On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to harassment or other discrimination in, any academic, extracurricular, research, occupational training, or other program or activity.

(b) On the basis of sex, provision of different amounts or types of student financial aid, limitation of eligibility for student financial aid, or the application of different criteria to applicants for student financial aid or for participation in the provision of student financial aid by others.

(c) On the basis of sex, exclusion from participation in, or denial of equivalent opportunity in, athletic programs. “Equivalent” means equal or equal in effect.

(d) On the basis of sex, harassment, or other discrimination among persons, including, but not limited to, students and nonstudents, or academic and nonacademic personnel, in employment and the conditions thereof, except as it relates to a bona fide occupational qualification.

(e) On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions.

### **How to File a Complaint Under Title IX**

(a) You can find more information regarding how to file a complaint as follows:

- The United States Office for Civil Rights websites:
  - <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>.
  - <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>
  - <https://ocrcas.ed.gov/welcome-to-the-ocr-complaint-assessment-system>
- California Department of Education website:
  - <http://www.cde.ca.gov/re/di/eo/complaint.asp>
- ROA Uniform Complaint Procedures (“UCP”) or Title IX, Harassment, Intimidation, Discrimination, and Bullying Policy. A complete copy of these policies is available at each of the campuses.

(b) A complaint regarding discrimination or harassment based on sex must ordinarily be filed with the U.S. Office for Civil Rights within 180 days of the last act of discrimination. If your complaint involves matters that occurred longer than this and you are requesting a waiver, you will be asked to show good cause why you did not file your complaint within the 180-day period. If you have questions about your situation, you can contact the California branch of the Office for Civil Rights at the address listed below. A complaint filed with ROA under our UCP alleging unlawful discrimination, harassment, intimidation or bullying must be initiated no later than six (6) months from the date when the alleged unlawful discrimination, harassment, intimidation or bullying occurred, or six (6) months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation or bullying.

(c) The U.S. Office for Civil Rights has its own policies and procedures for investigating complaints. Please review the above link for more information about this process. A complaint filed with ROA under our UCP or Title IX, Harassment, Intimidation, Discrimination, and Bullying Policy will be investigated in compliance with those policies.

(d) There are a variety of ways to file your complaint. You can use the U.S. Office for Civil Rights electronic complaint form filed directly through their website; or mail, email, or send by facsimile your own letter or a completed copy of the Office for Civil Rights Discrimination Complaint Form.

- The electronic complaint form is available at <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>
- You can send a completed version of this form or your own letter via email, facsimile, or regular mail to the following addresses:

**Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, D.C. 20202**

**Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: [ocr@ed.gov](mailto:ocr@ed.gov)**

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**San Francisco Office  
Office for Civil Rights  
U.S. Department of Education  
50 United Nations Plaza  
Mail Box 1200, Room 1545  
San Francisco, CA 94102**

**Telephone: 415-486-5555  
FAX: 415-486-5570; TDD: 800-877-8339  
Email: [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)**

To file a UCP or complaint under our Title IX, Harassment, Intimidation, Discrimination, and Bullying Policy directly with ROA, please follow procedures set forth in those policies.



# TITLE IX TRAINING

May 17, 2022

12:00 PM – 1:30 PM



Merrick A. Wadsworth  
*Senior Associate*

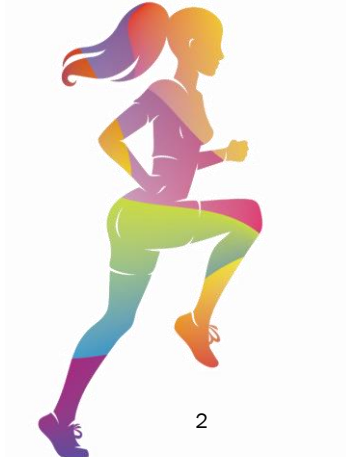


Greta A. Proctor  
*Partner*

# Agenda

- Scope of Title IX, how it applies to charter schools, and recent changes
- Definitions
- Personnel on the School's Title IX Team
- How to serve impartially: avoiding prejudgment of the facts, conflicts of interest, and bias
- Handling reports of sexual harassment and initial response
- Grievance procedures for formal complaints
  - How to conduct an investigation: relevant evidence, investigative report, appeals, informal resolution process, etc.

## Scope of Title IX, how it applies to charter schools, and recent changes



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# What is Title IX?

- Title IX is a federal civil rights law dating back to 1972 that prohibits discrimination on the basis of sex, including sexual harassment, in all schools that receive federal funding:
  - *“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.”*
- Examples of the types of discrimination that are covered under Title IX include sexual harassment, failure to provide equal athletic opportunity, sex-based discrimination in a school’s courses and programs, and discrimination based on pregnancy



# Does Title IX Apply to Charter Schools?

- All public and private elementary and secondary schools, school districts, colleges, and universities receiving any Federal funds must comply with Title IX
  - *\*note the requirements are different for colleges/universities than TK-12*
- The application of Title IX to charter schools receiving federal funds has not changed in recent years. However, since 2020, the process and requirements for *all* schools have changed significantly
  - Many charter schools previously used their UCP process to address Title IX complaints, which was recommended by CDE
- Schools follow the Title IX requirements that were in place at the time of the alleged incident (notwithstanding the date of school's response)

# Recent Changes

- In mid-2020, the Secretary of Education under the former federal administration amended the Title IX regulations, in particular the process for how schools must handle sexual harassment complaints
  - Many thought that the new federal administration would change the 2020 amendments
- The new federal administration did not change the 2020 amendments (yet), and in mid-2021, the U.S. Department of Education issued guidance for K-12 schools to implement the 2020 regulations
  - Updated Title IX grievance procedures are now part of CDE's review for schools selected for Federal Program Monitoring (FPM) and many authorizers' oversight requirements.

# What Does Title IX Now Require (among other things)?

- Schools must adopt grievance procedures for addressing formal complaints of sexual harassment
- Any time a school has actual knowledge of sexual harassment in the school's education programs or activities (whether employees and/or students), the school has an obligation to respond promptly
  - “Actual knowledge” means notice to any school employee
- The school's Title IX Team must receive training on the grievance procedures and other topics
- Schools must post training materials and Title IX statement to website

## Definitions



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# Definition of Sexual Harassment under Title IX

- **Sexual harassment** under Title IX includes any of the following, per 34 C.F.R. 106.30:
  - Quid Pro Quo Harassment: school employee conditions provision of aid, benefit, or service on an individual's participation in unwelcome sexual conduct
  - Denial of equal access to education program: 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 education program or activity
    - How is this standard determined?
  - Other sexual acts: sexual assault, dating violence, domestic violence, or stalking as defined per federal statutes (see next slides)

# Sexual Harassment under Title IX (cont.)

- **Sexual Assault** can be forcible and nonforcible:
  - Forcible: any sexual act directed against complainant forcibly, against their will or without consent
  - Nonforcible: offenses that do not involve force where complainant is incapable of giving consent

# Sexual Harassment under Title IX (cont.)

- **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim
  - Whether a relationship exists is determined based on a consideration of the following factors:
    - Length of relationship
    - Type of relationship
    - Frequency of interaction between the persons in the relationship

# Sexual Harassment under Title IX (cont.)

- **Domestic Violence** is violence committed by:
  - Current or former spouse or intimate partner of the victim
  - Person with whom the victim shares a child in common
  - Person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
  - Person similarly situated to a spouse of the victim under the domestic or family violence laws of the state
  - Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state



# Sexual Harassment under Title IX (cont.)

- **Stalking** is engaging in a course of conduct directed at the complainant that would cause a reasonable person to:
  - Fear for their safety or safety of others; or
  - Suffer substantial emotional distress

# Education Program or Activity

- Includes locations, events, or circumstances over which the educational institution exercised substantial control over both the respondent and the context in which the sexual harassment occurs
  - E.g., in class, during break or lunch periods, on remote learning platforms, at school-sponsored activities, etc.
  - Off-campus and online settings may require fact-specific determination

# Complainant vs. Respondent

- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

# Note on California Law

- Definitions of sexual harassment and required responses under California law and under Title IX overlap but are not the same
  - Today's presentation is limited to Title IX requirements
- Any complaints alleging unlawful discrimination or harassment on the basis of sex may also be eligible to be investigated under school's Uniform Complaint Procedures ("UCP") or other process, but UCP does not supplant Title IX
- Only formal complaints alleging sexual harassment as defined under Title IX may be investigated under school's Title IX grievance procedures

## The Title IX Team



# Roles

- **Title IX Coordinator** receives reports and formal complaints of sexual harassment, and coordinates the investigation and resolution process
- **Investigator** gathers all evidence related to a formal complaint and creates an “Investigative Report” summarizing the relevant evidence
  - Investigator can also be the Title IX Coordinator

# Roles

- **Decision-Maker** evaluates evidence in order to make a written determination of findings regarding a formal complaint
  - Decision-Maker cannot be the Title IX Coordinator, the Investigator, or any individual involved in the investigation of the formal complaint
- **Title IX Appeals Officer** evaluates an appeal of the Decision-Maker's final determination (if an appeal is filed)
  - Title IX Appeals Officer cannot be the Title IX Coordinator, Investigator, or any individual involved in the investigation of the formal complaint

# Training Requirements

- Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of Title IX, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias



# Training Content

- Decision-makers must receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant
- Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence
- Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment

## Serving Impartially



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# Requirement to be Neutral

- All members of the Title IX Team must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent
  - Must serve impartially and avoid prejudgment of the facts

# Avoid Conflicts of Interest

- There is no definition of a conflict under Title IX
- A conflict of interest generally occurs when an individual has a personal interest in the matter that affects their decision-making
  - Could be a familial interest, financial interest, etc.
- *Example:* the Investigator is related by marriage to the respondent
- *Example:* the Decision-Maker's spouse works at a business owned by the complainant

# Avoid Bias

- Bias is an unfair preference for or dislike of something
  - It's usually a function of experiences we have had or beliefs we have developed over time
- Bias inhibits impartial judgment
  - Our own experiences and perceptions are not universal
  - Perceptions can be as powerful as reality

# Avoid Bias

- Bias is oftentimes implicit, meaning the individual is unaware that their behavior is “discriminatory”
  - It’s often associated with a person’s gender, age, race, etc.
- *Example:* male Decision-Maker who quickly believed witness “Tom” but is skeptical of witness “Chloe”
- You can prevent bias by learning to recognize it, being aware of it, and actively focusing on remaining impartial

## Handling reports of sexual harassment and initial response



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# Overview

- Who can make a report of sexual harassment and how? (next slide)
- What are the initial response steps? (next slides)
  - Contact complainant
    - Determine need for supportive measures
    - Explain Title IX grievance process (i.e., reports vs. formal complaints)
  - Determine need for emergency removal
- Overarching standard: school must “respond promptly in a manner that is not deliberately indifferent,” i.e. not clearly unreasonable in light of the known circumstances



# Reports of Sexual Harassment

- Any individual (e.g., the alleged victim, a student, an employee, a parent/guardian, etc.) may report sexual harassment directly to the Title IX Coordinator, or to any other available school employee who shall immediately inform the Title IX Coordinator
  - Reports can be made by any means (e.g., in-person, by phone, by mail, by email, etc.)
- Timing of report

# Initial Response: Contact Complainant

- Title IX Coordinator must:
  - Promptly contact the complainant, listen to allegations, and discuss the availability of supportive measures regardless of whether a formal complaint is filed (see next slides)
  - Consider the complainant's wishes with regard to supportive measures
  - Explain the Title IX grievance process for filing a formal complaint
    - Definition of formal complaint

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# Initial Response: Supportive Measures

- Non-disciplinary, non-punitive individualized services available free of charge at any point during the Title IX investigation
- Designed to restore or preserve equal access to school's education program or activity without unreasonably burdening the other party
  - Examples include wellness check-ins, counseling services, extension of deadlines or course-related adjustments, modifications of work or class schedules, changes in work locations, leaves of absence, etc.

# Initial Response: Determine Need for Emergency Removal

- Title IX Coordinator will review the facts to determine whether respondent may need to be removed from the school setting to prevent further sexual harassment and/or maintain safety of students and staff
  - If respondent is a **student**, respondent may be removed from educational program based on individualized safety and risk analysis. Respondent shall be provided with notice and opportunity to challenge the decision immediately following the removal
    - Applicable laws concerning student discipline and expulsion apply
  - If respondent is an **employee**, respondent may be placed on administrative leave during formal complaint investigation

## Grievance Procedures for Formal Complaints of Sexual Harassment



# Step-by-Step Overview

- Step 0. Report and initial response, including consideration of supportive measures and potential temporary removal (see previous slides)
- Step 1. Initial review of formal complaint
- Step 2. Send written notice of formal complaint
- Step 3. Conduct investigation
- Step 4. Prepare and share investigative report
- Step 5. Issue written decision
- Step 6. Provide remedies
- Step 7. Appeals
- Step 8. Recordkeeping

# Step 1: Initial Review

- School reviews complaint
  - Your policy will provide a process and timeline for this
- Mandatory and discretionary dismissals of a formal complaint
  - **Must** dismiss complaint if the alleged conduct:
    - Does not constitute sexual harassment under Title IX; or
    - Did not occur in school's educational program/activity or against individual in U.S.
  - **May** dismiss complaint if:
    - Complainant has notified school in writing of desire to withdraw complaint/allegations;
    - Respondent is no longer enrolled in or employed by school; or
    - Specific circumstances prevent school from gathering evidence to reach a determination

# Step 1: Initial Review (cont.)

- If Title IX Coordinator dismisses complaint:
  - Must send written notice simultaneously to both parties
  - State reason for dismissal and inform parties of their right to appeal
  - If Title IX Coordinator determines another school grievance procedure (e.g., UCP) is appropriate, inform parties of school's intent to investigate the complaint through that procedure



## Step 2: Send Written Notice

- School must provide parties with notice of formal complaint
  - Your policy will provide a process and timeline for this
- Notice shall include:
  - Copy of school’s Policy on Title IX
  - Description of allegations with sufficient detail (e.g., parties involved, specific conduct, date and location of alleged incident, etc.)
  - Statement that respondent is presumed not responsible and determination made at end of process
  - Statement informing parties of opportunity to have advisor of their choice throughout grievance process and ability to inspect and review evidence
  - Statement informing parties that they must not knowingly make false statements or submit false information

# Step 3: Conduct Investigation

- Timelines and extensions
- Presumption of innocence
  - School must presume respondent is **not** responsible for alleged conduct
- Evidence gathering
  - Investigator has burden to gather sufficient evidence
  - Cannot gather privileged information without voluntary, written consent (e.g., medical records)
  - Must provide written notice for all interviews with sufficient time for the individual to prepare to participate
    - School has discretion to permit parties to appear virtually
  - No live hearing requirement for TK-12
    - Q&A process

## Step 3: Conduct Investigation (cont.)

- Equal opportunities
  - Both parties must have equal opportunity to present witnesses and evidence
  - Both parties may have an advisor of their choice present for any meeting, hearing, interview
    - School can restrict advisors' participation in the proceedings if equal
  - Both parties must be provided with all evidence that is directly related to the allegations in the complaint and at least 10 days to submit a written response, which must be considered by the Investigator
    - Your policy should confirm whether calendar days or school days

# Step 4: Prepare and Share Investigative Report

- Investigator must prepare an investigative report that fairly summarizes **all** relevant evidence, including both inculpatory and exculpatory evidence
  - “Relevant evidence” is not defined under Title IX
- With limited exception, evidence of complainants prior sexual behavior is not relevant
- Evidence is generally considered relevant when it has any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action

## Step 4: Prepare and Share Investigative Report (cont.)

- Investigator must share the investigative report with both parties and their advisors at least 10 days before school issues a written decision
  - Your policy should confirm whether calendar days or school days
- Both parties may submit a written response

# Step 5: Issue Written Decision

- **Before** making decision, the Decision-Maker must:
  - Inform each party of the right to submit written, relevant questions that a party wants asked of any party or witness, and allow for additional limited follow-up questions from each party (Q&A process)
  - Provide responses to the questions or explain any decision to the party to exclude questions as irrelevant

## Step 5: Issue Written Decision (cont.)

- Decision-Maker must use either “preponderance of evidence” standard or “clear and convincing evidence” standard
  - Check your policy
- Written decision should be issued to both parties simultaneously
  - Your policy should provide a reasonable timeline for this
- Written decision must include the specific allegations, description of the investigation process, findings of fact, conclusions, rationale, any disciplinary sanctions for respondent, whether remedies will be provided to the complainant, and procedures/bases for either party to appeal

# Step 6: Provide Remedies

- If school determines that respondent engaged in sexual harassment, the Title IX Coordinator will provide appropriate remedies to complainant
- Remedies may be disciplinary and/or punitive and may burden respondent
- School is free to make disciplinary and remedial decisions, but remedies must be designed to restore or preserve equal access to educational program
- Examples include supportive measures, transfer from a class, parent/student conference(s), positive behavior support, warnings, and/or formal discipline (e.g., detention, suspension, expulsion, etc.)
  - Remedies may be the same individualized services the school provided to the complainant as supportive measures
- If employee is found to have engaged in sexual harassment, school will take appropriate disciplinary action (e.g., termination)



# Step 7: Appeals

- Either party may appeal the written decision, or dismissal of a formal complaint or allegation in a complaint
  - Your policy will provide a process and timeline for this
- Bases for appeal:
  - Procedural irregularity that affected the outcome
  - New evidence that was not reasonably available and could have affected outcome
  - Conflict of interest or bias by Title IX Coordinator, Investigator, or Decision-Maker
- School must provide written notice to the other party and give both parties a reasonable, equal opportunity to submit a written statement
- Title IX Appeals Officer must issue a written decision simultaneously to both parties
  - Your policy will provide a timeline for this

# Step 8: Recordkeeping

- School must maintain records for seven years, including records of:
  - Each sexual harassment investigation
  - Any appeal and result of the appeal
  - Any informal resolution and result of the resolution
  - All materials used to train the Title IX Team (materials must be publicly available on website)
  - Any actions taken in response to a report or formal complaint of sexual harassment

# Consider Informal Resolution Processes

- Any time after a formal complaint has been filed, but before reaching a determination, the school may offer an informal resolution process (e.g., mediation, restorative justice, etc.) to complainant and respondent
  - Both parties must voluntarily consent
  - Exception: Informal resolution process is not available where complainant alleges that an employee harassed a student

# Thank you!

## Questions? Please don't hesitate to contact us!



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