
Laredo College Policies

For information related to Title IX institutional Policies please access Laredo Colleges Website (www.laredo.edu) – select tab – “[About LC](#)” – select [Manual of Policy](#) – Select [Policy Online](#).

The following LC Institutional Policies address Title IX information:

Students

[FFDA \(LEGAL\)](#)

[FFDA \(LOCAL\)](#)

[FFDB \(LEGAL\)](#)

[FFDB \(LOCAL\)](#)

[FA \(LEGAL\)](#)

[FLD \(LOCAL\)](#)

[FLB \(LOCAL\)](#)

Employees

[DAA \(LEGAL\)](#)

[DGBA \(LEGAL\)](#)

[DIAA \(LEGAL\)](#)

[DIAA \(LOCAL\)](#)

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Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students. For additional legally referenced material relating to discrimination, harassment, and retaliation, including the Clery Act, see FA(LEGAL). For sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees, see DIAA.

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Section I: Title IX

Definitions

Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*

Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*

*Education
Program or
Activity*

For the purposes of 34 C.F.R. 106.44, 34 C.F.R. 106.30, and 34 C.F.R. 106.45, “education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. *34 C.F.R. 106.44(a)*

*Sexual
Harassment*

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
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).

34 C.F.R. 106.30(a)

Formal Complaint

“Formal complaint” means 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.

The phrase “document filed by a complainant” means a document or electronic submission, such as by electronic mail or through an online portal provided for this purpose by the recipient, that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

34 C.F.R. 106.30(a)

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*Actual
Knowledge*

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient.

“Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX coordinator as described in 34 C.F.R. 106.8(a).

34 C.F.R. 106.30(a)

*Supportive
Measures*

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment.

Supportive measures may include 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, and other similar measures.

The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.30(a)

Notice of
Nondiscrimination

Each recipient must notify persons entitled to a notification under 34 C.F.R. 106.8(a) that the recipient does not discriminate on the basis of sex in the education program or activity that it operates,

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and that it is required by Title IX and 34 C.F.R. Part 106 not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, unless 34 C.F.R. Part 106, Subpart C does not apply, and that inquiries about the application of Title IX and 34 C.F.R. Part 106 to such recipient may be referred to the recipient's Title IX coordinator, to the Assistant Secretary, or both. *34 C.F.R. 106.8(b)(1)*

Title IX Coordinator Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under 34 C.F.R. Part 106, which employee must be referred to as the "Title IX coordinator." *34 C.F.R. 106.8(a)*

Grievance Procedures A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 C.F.R. Part 106 and a grievance process that complies with 34 C.F.R. 106.45 for formal complaints. These requirements apply only to sex discrimination occurring against a person in the United States. *34 C.F.R. 106.8(c)–(d)*

Process for Formal Complaints
Conflict of Interest Prohibited A recipient's grievance process must require that any individual designated by a recipient as a Title IX coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. *34 C.F.R. 106.45(b)*

Training A recipient must ensure that Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. 106.30, the scope of the recipient's education program or activity, 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.

A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and 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, as set forth in 34 C.F.R. 106.45(b)(6).

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A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in 34 C.F.R. 106.45(b)(5)(vii).

Any materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

34 C.F.R. 106.45(b)

Time Frames	A recipient's grievance process must include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as 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. <i>34 C.F.R. 106.45(b)</i>
Presumption of Responsibility Prohibited	A recipient's grievance process must include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. <i>34 C.F.R. 106.45(b)</i>
Information Subject to Privilege	A recipient's grievance process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. <i>34 C.F.R. 106.45(b)</i>
Evaluation of Evidence and Credibility Determinations	A recipient's grievance process must require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness. <i>34 C.F.R. 106.45(b)</i>
Standard of Evidence	A recipient's grievance process must state whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against em-

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	<p>ployees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment. <i>34 C.F.R. 106.45(b)</i></p>
Supportive Measures	<p>A recipient's grievance process must describe the range of supportive measures available to complainants and respondents. <i>34 C.F.R. 106.45(b)</i></p>
Sanctions and Remedies	<p>A recipient's grievance process must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in 34 C.F.R. 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.</p> <p>A recipient's grievance process must describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility.</p> <p><i>34 C.F.R. 106.45(b)</i></p>
Appeals	<p>A recipient's grievance process must include the procedures and permissible bases for the complainant and respondent to appeal. <i>34 C.F.R. 106.45(b)</i></p>
Additional Procedures	<p>Any provisions, rules, or practices other than those required by Section 106.45 that a recipient adopts as part of its grievance process for handling formal complaints of sexual harassment, as defined in 34 C.F.R. 106.30, must apply equally to both parties. <i>34 C.F.R. 106.45(b)</i></p>
Reporting	<p>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 electronic mail, using the contact information listed for the Title IX coordinator, or by any other means that results in the Title IX coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX coordinator. <i>34 C.F.R. 106.8(a)</i></p>

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*Formal Complaint
Filing*

A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator under 34 C.F.R. 106.8(a), and by any additional method designated by the recipient. 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 recipient with which the formal complaint is filed.

Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party under 34 C.F.R. Part 106 or under 34 C.F.R. 106.45, and must comply with the requirements of 34 C.F.R. Part 106, including 34 C.F.R. 106.45(b)(1)(iii).

34 C.F.R. 106.30(a)

Consolidation of
Complaints

A recipient may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. *34 C.F.R. 106.45(b)(4)*

Notice of
Allegations

Upon receipt of a formal complaint, a recipient must provide the following written notice to the parties who are known:

1. Notice of the recipient's grievance process that complies with 34 C.F.R. 106.45, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in 34 C.F.R. 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under Section 106.30, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under 34 C.F.R. 106.45(b)(5)(iv), and may inspect and review evidence under Section 106.45(b)(5)(vi). The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to item 2, above, the recipient must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Response to Sexual
Harassment

A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

A recipient's response must treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

The U.S. Department of Education may not deem a recipient to have satisfied the recipient's duty to not be deliberately indifferent under 34 C.F.R. Part 106 based on the recipient's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

34 C.F.R. 106.44(a)

*Response to
Formal Complaint*

In response to a formal complaint, a recipient must follow a grievance process that complies with 34 C.F.R. 106.45. With or without a formal complaint, a recipient must comply with 34 C.F.R. 106.44(a).

A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

34 C.F.R. 106.44(b), .45(a)

Informal Resolution

A recipient 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 consistent

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with 34 C.F.R. 106.45. Similarly, a recipient may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, 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, provided that the recipient:

1. Provides to the parties a written notice disclosing: 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, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

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

Investigation

When investigating a formal complaint and throughout the grievance process, a recipient must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the recipient and not on the parties provided that the recipient cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a grievance process under this section.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

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3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the recipient may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing, if a hearing is required under this section or otherwise provided, or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

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Hearings	For postsecondary institutions, the recipient's grievance process must provide for a live hearing. <i>34 C.F.R. 106.45(b)(6)(i)</i>
<i>Conduct of Hearing</i>	<p>Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.</p> <p>At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p>
<i>Cross-Examination</i>	<p>At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient under 34 C.F.R. 106.45(b)(5)(iv) to otherwise restrict the extent to which advisors may participate in the proceedings.</p> <p>If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p>
Relevance	<p>Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.</p> <p>Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p>

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Refusal to Submit to Cross- Examination	If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. 34 C.F.R. 106.45(b)(6)(i)
<i>Recording</i>	Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. 34 C.F.R. 106.45(b)(6)(i)
Determination Regarding Responsibility	<p>The decision-maker(s), who cannot be the same person(s) as the Title IX coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in 34 C.F.R. 106.45(b)(1)(vii). The written determination must include:</p> <ol style="list-style-type: none">1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. 106.30;2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;3. Findings of fact supporting the determination;4. Conclusions regarding the application of the recipient's code of conduct to the facts;5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and6. The recipient's procedures and permissible bases for the complainant and respondent to appeal. <p>The recipient must provide the written determination to the parties simultaneously.</p> <p>The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an</p>

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appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX coordinator is responsible for effective implementation of any remedies.

34 C.F.R. 106.45(b)(7)

Dismissal of
Complaint

The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or 34 C.F.R. Part 106; such a dismissal does not preclude action under another provision of the recipient's code of conduct.

The recipient may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the recipient; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the recipient must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

34 C.F.R. 106.45(b)(3)

Appeals

A recipient must offer both parties an appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A recipient may offer an appeal equally to both parties on additional bases. As to all appeals, the recipient must:

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1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in 34 C.F.R. 106.45(b)(1)(iii);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Confidentiality

The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

Retaliation
Prohibited

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 34 C.F.R. Part 106, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Part 106. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or Part 106, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under 34 C.F.R. 106.8(c).

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The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under 34 C.F.R. Part 106 does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71

Removal or Leave

Nothing in 34 C.F.R. Part 106 precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Nothing in 34 C.F.R. Part 106, Subpart D precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with 34 C.F.R. 106.45. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

34 C.F.R. 106.44(c)–(d)

Publication

*Title IX
Coordinator and
Notice of Non-
discrimination*

The recipient must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX coordinator. *34 C.F.R. 106.8(a)*

Each recipient must prominently display the contact information required to be listed for the Title IX coordinator and the policy described in 34 C.F.R. 106.8(b)(1) on its website, if any, and in each handbook or catalog that it makes available to persons entitled to a notification under 34 C.F.R. 106.8(a).

A recipient must not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on

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the basis of sex except as such treatment is permitted by Title IX or 34 C.F.R. Part 106.

34 C.F.R. 106.8(b)(2)

*Grievance
Procedures and
Process*

A recipient must provide to persons entitled to a notification under 34 C.F.R. 106.8(a) notice of the recipient's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the recipient will respond. *34 C.F.R. 106.8(c)*

*Training
Materials*

A recipient must make the materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, or if the recipient does not maintain a website, the recipient must make these materials available upon request for inspection by members of the public. *34 C.F.R. 106.45(b)(10)*

Recordkeeping

A recipient must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under 34 C.F.R. 106.45(b)(6)(i), any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

For each response required under 34 C.F.R. 106.44, a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The

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documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Section II: State Law

Definitions

*Dating Violence,
Sexual Assault,
and Stalking*

"Dating violence," "sexual assault," and "stalking" have the same meanings assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f)(6)(A). *Education Code 51.251(2), .281(2); 19 TAC 3.3(c)*

*Sexual
Harassment*

"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

1. In the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
2. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities.

Education Code 51.251(5), .281(4); 19 TAC 3.3(e)

Employee

"Employee of a postsecondary educational institution" does not include a student enrolled at the institution. *Education Code 51.251(3)*

*Course and
Scope of
Employment*

"Course and scope of employment" means an employee performing duties in the furtherance of the institution's interests. *19 TAC 3.3(b)*

**Sexual Assault
Policy**

Each postsecondary educational institution, including each college district, shall adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each enrolled student and each employee of the institution and have the policy approved by the institution's governing body. The policy must include:

1. Definitions of prohibited behavior;
2. Sanctions for violations;
3. Protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking that complies with the electronic reporting requirement in 19 Administrative Code 3.7;

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4. Interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking pending the institution's disciplinary process, including protection from retaliation, and any other accommodations or supportive measures available to those victims at the institution. This section is not intended to limit an institution's ability to implement accommodations to others as needed; and
5. A statement regarding:
 - a. The importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
 - b. The right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
 - c. The right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking adopted under this section, each postsecondary educational institution shall:

1. To the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of a sexual harassment, sexual assault, dating violence, and stalking and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and
2. Notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, and stalking to drop a course in which both parties are enrolled without any academic penalty.

Education Code 51.282(a), (e); 19 TAC 3.4(a), (d)(2)(C)

Review

Each postsecondary educational institution shall review its sexual harassment, sexual assault, dating violence, and stalking policy at least each biennium and revise the policy as necessary and obtain approval from the institution's governing board. *Education Code 51.282(f); 19 TAC 3.4(e)*

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<i>Distribution</i>	<p>Each postsecondary educational institution shall make its policy on sexual harassment, sexual assault, dating violence, and stalking available to students, faculty, and staff members by:</p> <ol style="list-style-type: none">1. Including the policy in the student handbook and personnel handbook or the institution's equivalent(s); and2. Creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution's homepage. <p><i>Education Code 51.282(b); 19 TAC 3.4(b)</i></p>
Responsible Employee	<p>Each postsecondary educational institution shall designate one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq and inform each student enrolled at the institution of the designated responsible employees. <i>Education Code 51.290(a); 19 TAC 3.14(a)</i></p>
Reporting <i>Employee Reporting Required</i>	<p>An employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator.</p> <p>The employee is required to report an incident regardless of when or where the incident occurred.</p> <p>Institutions may establish additional reporting avenues to comply with this section provided that the reports are promptly routed to the Title IX coordinator or deputy Title IX coordinator.</p> <p><i>Education Code 51.252(a); 19 TAC 3.5(a)</i></p>
Exception from Reporting	<p>A person is not required to make a report under this section concerning:</p> <ol style="list-style-type: none">1. An incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking;2. An incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution; or

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3. A sexual harassment, sexual assault, dating violence, or stalking incident in which the person has either learned of the incident during the course of his or her institution's review or process or has confirmed with the person or office overseeing the review or process, that the incident has been previously reported.

Education Code 51.252(d); 19 TAC 3.5(d)

Contents of
Report

The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. *Education Code 51.252(b); 19 TAC 3.5(b)*

Limitations on
Reporting

*Designated
Confidential
Employees*

Each postsecondary educational institution shall designate one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated confidential employees.

A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under 19 Administrative Code 3.5(c), state law, or federal law.

Absent consent from the reporting student, an employee designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking shall only state the type of incident reported and may not include any information that would violate a student's expectation of privacy.

Education Code 51.252(c), .290(a), (c); 19 TAC 3.5(c), .14

*Confidential
Employees
Under Other
Law*

Absent consent from the reporting individual, an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking under circumstances that render the employee's communications confidential or privileged under other law shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. *Education Code 51.252(c); 19 TAC 3.5(c)*

*Medical
Providers*

Absent consent from the victim(s), an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking in the course and scope of employment as a health-care provider, mental health-care provider, or other medical provider shall only state the type of incident reported

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and may not include any information that would violate an expectation of privacy. *Education Code 51.291(d); 19 TAC 3.5(c)*

*Campus
Peace
Officers*

A campus peace officer employed by a postsecondary educational institution who receives information regarding an incident described by Education Code 51.252(a) from an alleged victim who chooses to complete a pseudonym form described by Code of Criminal Procedure Article 58.102, 58.152, 58.202, or 58.252 shall, in making a report, state only the type of incident reported and may not include the victim's name, phone number, address, or other information that may directly or indirectly reveal the victim's identity. *Education Code 51.252(c-1)*

*Multiple
Confidential
Employees*

When multiple confidential employees receive information about the same incident (e.g., student health center or counseling center), only a single report stating the type of incident is required. *19 TAC 3.5(c)*

*Reporting
Under Other
Law*

These limitations on disclosure do not affect the employee's duty to report an incident under any other law, including but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f), Family Code 261.101, or Health and Safety Code 611.004. *Education Code 51.290(c); 19 TAC 3.5(c)*

*Failure to Report
or False Report*

A person commits an offense if the person is required to make a report under Education Code 51.252 and knowingly fails to make the report or with the intent to harm or deceive, knowingly makes a report under Section 51.252 that is false.

A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense.

Education Code 51.255(a), (c); 19 TAC 3.8

Student Advocate

A postsecondary educational institution may designate one or more students enrolled at the institution as student advocates to whom other students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. The institution shall notify each student enrolled at the institution of the student advocate(s) designated under this section.

A student advocate designated under this section may not disclose any communication made by a student to the advocate unless the student consents to the disclosure or the advocate is required to make the disclosure under state or federal law.

Education Code 51.290(b)–(c); 19 TAC 3.15

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*Electronic
Reporting*

Each postsecondary educational institution shall provide an option for a student enrolled at or an employee of the institution to electronically report to the institution an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must:

1. Allow for anonymous reporting; and
2. Be easily accessible via a clearly identifiable link on the institution's website home page.

A protocol for reporting sexual assault adopted under Education Code 51.282 must comply with this section.

Education Code 51.283(a)–(c); 19 TAC 3.7

*Reporting on
Reports*

Title IX
Coordinator

Not less than once every three months, the Title IX coordinator of a postsecondary educational institution shall submit to the institution's chief executive officer a written report on the reports received for the institution's reporting period under 19 Administrative Code 3.5, including information regarding:

1. The investigation of those reports;
2. The disposition, if any, of any disciplinary processes arising from those reports; and
3. The reports for which the institution determined not to initiate a disciplinary process, if any.

The Title IX coordinator or deputy Title IX coordinator of a postsecondary educational institution shall immediately report to the institution's chief executive officer an incident reported to the coordinator under Section 3.5 if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

Education Code 51.253(a)–(b); 19 TAC 3.6(a)–(b)

Chief Executive
Officer

At least once annually, during each fall or spring semester, the chief executive officer of a postsecondary educational institution shall submit to the institution's governing body and post on the institution's internet website a report concerning the reports received under 19 Administrative Code 3.5. The chief executive officer report may not identify any person and must include:

1. The number of reports received under Section 3.5;
2. The number of investigations conducted as a result of those reports;

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3. The disposition, if any, of any disciplinary processes arising from those reports;
4. The number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
5. Any disciplinary actions taken under 19 Administrative Code 3.8.

If for any semester a postsecondary educational institution has fewer than 1,500 enrolled students, the chief executive officer of the institution shall submit and post a report required for that semester only if more than five reports were received under Section 3.5 during that semester.

Education Code 51.253(c)–(d); 19 TAC 3.6(c)–(d)

Investigations

*Request Not to
Investigate*

If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Education Code 51.291 and 19 Administrative Code 3.17. In determining whether to investigate the alleged incident, the institution shall consider:

1. The seriousness of the alleged incident;
2. Whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;
3. Whether the alleged incident poses a risk of harm to others; and
4. Any other factors the institution determines relevant.

If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, the institution shall take any reasonable steps the institution determines necessary and consistent with the institution's policy and applicable law to protect the health and safety of the institution's community in relation to the alleged incident.

Education Code 51.285(a)–(b); 19 TAC 3.9(a)–(b)

*Notice of
Decision*

A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the

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	<p>alleged incident of the institution's decision whether to investigate the alleged incident. <i>Education Code 51.285(c); 19 TAC 3.9(c)</i></p>
Confidentiality	<p>Unless waived in writing by the person, the identity of a person described below is confidential and not subject to disclosure under the Public Information Act (PIA) and may be disclosed only to:</p> <ol style="list-style-type: none">1. Persons employed by or under contract with the postsecondary educational institution to which the report is made who are necessary to conduct an investigation or the report or any related hearings;2. A law enforcement officer as necessary to conduct a criminal investigation of the report;3. A health-care provider in an emergency, as determined necessary by the institution;4. The person or persons alleged to have perpetrated the incident, to the extent required by other law; and5. Potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law. <p>The protections provided by this section apply to:</p> <ol style="list-style-type: none">1. An alleged victim;2. A person who reports an incident to an institution;3. A person who sought guidance from the institution concerning an incident;4. A person who participated in the institution's investigation of an incident; or5. A person who is alleged in a report made to an institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking, if after completing an investigation, the institution determines the report to be unsubstantiated or without merit. <p><i>Education Code 51.256, .291(a), (c); 19 TAC 3.17</i></p>
Retaliation Prohibited <i>Employees</i>	<p>A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by 19 Administrative Code 3.5 or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a required report made by the employee. <i>Education Code 51.257(a); 19 TAC 3.18(a)</i></p>
Exception	<p>The prohibition does not apply to an employee who:</p>

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1. Reports an incident of sexual harassment, sexual assault, dating violence, and stalking perpetrated by the employee; or
2. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident of sexual harassment, sexual assault, dating violence, and stalking.

Education Code 51.257(b); 19 TAC 3.18(b)

Any Person

A person acting in good faith who reports or assists in the investigation of a report of an incident described by 19 Administrative Code 3.5 or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's policy or code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. This provision does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Section 3.5. *Education Code 51.254; 19 TAC 3.5(e)–(f)*

Awareness

*Orientation on
Policy*

Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term of enrollment at the institution. The institution shall establish the format and content of the orientation. The orientation may be provided online and must include the statements described by 19 Administrative Code 3.4(a)(5). *Education Code 51.282(c); 19 TAC 3.4(c)*

*Prevention and
Outreach
Program*

Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking for enrolled students and employees of the institution. The program must:

1. Address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a public awareness campaign; a victim empowerment program; primary prevention; bystander intervention; and risk reduction; and
2. Provide students with information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking, including the name, office location, and contact information of the institution's Title IX coordinator, by:

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- a. Emailing the information to each student at the beginning of each semester or other academic term; and
- b. Including the information in the institution's orientation, which may be provided online.

Education Code 51.282(d); 19 TAC 3.4(d)

Equal Access

In implementing the requirements under 19 Administrative Code Chapter 3, Subchapter A, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution's duties under this section. *Education Code 51.293; 19 TAC 3.16*

Memoranda of Understanding

To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:

1. Local law enforcement agencies;
2. Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
3. Hospitals or other medical resource providers.

Education Code 51.289; 19 TAC 3.13

Compliance

The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section.

If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Subchapter E-2 and Education Code Chapter 51, Subchapter E-3, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed \$2 million. In determining the amount of the penalty, the Coordinating Board shall consider the nature of the violation and the number of students enrolled at the institution.

If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution, the Coordinating

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Board shall provide to the institution written notice of the Coordinating Board's reasons for assessing the penalty. A postsecondary educational institution assessed an administrative penalty may appeal the penalty in the manner provided by Government Code Chapter 2001. A postsecondary educational institution may not pay the administrative penalty using state or federal money.

Education Code 51.258(a)–(e), .292(a)–(d); 19 TAC 3.19(a)–(e)

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	<p>Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students. For additional legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL). For sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees, see DIAA.</p>
<hr/>	
Statement of Nondiscrimination	The College District prohibits discrimination, including harassment, against any student on the basis of sex or gender. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.
Definitions	Discrimination against a student is defined as conduct directed at a student on the basis of sex or gender that adversely affects the student.
Discrimination	
Sexual Harassment	Sexual harassment of a student by a College District employee includes unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:
<i>By an Employee</i>	<ol style="list-style-type: none">1. A College District employee causes the student to believe that the student must submit to the conduct to participate in a college program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or2. The conduct is so severe, persistent, or pervasive that it limits or denies the student's ability to participate in or benefit from the College District's educational program or activities.
<i>By Others</i>	Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it limits or denies a student's ability to participate in or benefit from the College District's educational program or activities.
<i>Sexual Violence</i>	Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability.
<i>Dating Violence</i>	"Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature

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with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

*Domestic
Violence*

"Domestic violence" means violence committed by:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- Any other member of the victim's family as defined by state law;
- Any other current or former member of the victim's household as defined by state law;
- A person in a dating relationship with the victim as defined by state law; or
- Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs.

Stalking

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition:

1. "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

Examples

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; rape; sexual assault as defined by law; sexual battery; sexual coercion; and other sexually motivated conduct, communications, or contact.

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Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the student's household; destroying the student's property; threatening to commit suicide or homicide if the student ends the relationship; tracking the student; attempting to isolate the student from friends and family; threatening a student's spouse or partner; or encouraging others to engage in these behaviors.

Gender-Based
Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct limits or denies a student's ability to participate in or benefit from the College District's educational program.

Acts of gender-based harassment may also be considered sex discrimination or sexual harassment.

Examples

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, domestic violence, stalking, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct.

Complainant

In this policy, the term "complainant" refers to an applicant for admission or a student who is alleged to have experienced prohibited conduct. The term also includes a former student who is alleged to have experienced prohibited conduct while participating, or attempting to participate, in the College District's educational program or activity.

Respondent

In this policy, the term "respondent" refers to a person who is alleged to have committed prohibited conduct.

Confidential
Employee

A "confidential employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a

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	nonprofessional counselor or advocate designated in administrative procedures as a confidential source.
Reporting Procedures	A victim of prohibited conduct has the right to report the incident to the College District and to receive a prompt and equitable resolution of the report.
Student Report	<p>Any student who believes that the student has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to the Title IX coordinator, the College President, or another employee. A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation. A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct.</p> <p>Alternatively, a student may submit the report electronically through the College District's website. The submission of an anonymous electronic report may impair the College District's ability to investigate and address the prohibited conduct.</p> <p>A victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.</p> <p>It is important that a victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.</p>
<i>Exception</i>	Absent consent or unless required by law, a student designated in administrative regulations as a student advocate to whom another student may speak confidentially concerning prohibited conduct may not disclose any communication made by the other student.
Employee Report	<p>Any College District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately notify the Title IX coordinator and shall take any other steps required by this policy. Additionally, the employee may report to the College President or designee.</p> <p>A report against the College President must also be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
<i>Exceptions</i>	A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational
Disclosure at Event	

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institution or by a student organization affiliated with the institution is not required to report the prohibited conduct unless the person has the authority to institute corrective measures on behalf of the College District.

Employee
Subject to
Confidentiality
Rules

Absent the student's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the student's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

Peace Officer

A College District peace officer who received information regarding the incident from a student who chooses to complete a pseudonym form as described by law shall only be required to disclose the type of incident reported and may not disclose the student's name, phone number, address, or other information that may directly or indirectly reveal the student's identity.

Prior Report

A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment and gender-based harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:

Title IX Coordinator: Raquel A. Pena, Associate Dean of Students

Address: Kazen Student Center, Room 208, Laredo, TX 78040

Telephone: (956) 794-4988

Email: [Title IX Coordinator email¹](#)

Webpage: [Title IX/Sexual Misconduct webpage²](#)

**Responsible
Employees**

All employees, with the exception of confidential employees, are designated as responsible employees for purposes of compliance with Title IX.

Timely Reporting

A failure to immediately report prohibited conduct may impair the College District's ability to investigate and address the conduct.

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Consolidate Reports	When the allegations underlying two or more reports arise out of the same facts or circumstances, the College District may consolidate the reports.
Advisor	Each party to the complaint may be assisted by an advisor of the party's choice who may participate in the proceedings in a manner consistent with College District procedures.
Conflict of Interest Prohibited	No person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall have a conflict of interest or bias.
Training	A person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College District procedures.
Days	"Days" shall mean College District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Extension of Timelines	Timelines established by this policy and associated procedures may be subject to a limited extension if good cause, as defined in this policy and College District regulations, exists. The College District shall promptly provide written notice to the parties of an extension and the reason for the extension.
Investigation of the Report	The College District may request, but shall not require, a written report. If a report is made orally, the Title IX coordinator or designee shall reduce the report to written form.
Initial Assessment	<p>Upon receipt or notice of a report, the Title IX coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX coordinator shall promptly offer supportive measures to the complainant. The Title IX coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College District moves forward with the investigation, the Title IX coordinator shall immediately provide notice to the known parties to the complaint.</p> <p>If the Title IX coordinator determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the Title IX coordinator shall refer the complaint for consideration under the appropriate policy.</p>
<i>Request Not to Investigate</i>	The complainant may request that the College District not investigate the allegations. If the complainant requests that the allega-

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tions not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.

The College District shall promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District shall take reasonable steps to protect the health and safety of the College District community.

Formal Complaint	To be considered a formal complaint under Title IX, the complainant or the Title IX coordinator must sign the written report.
Notice to Parties	<p>The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.</p> <p>If the allegations are subsequently amended, the College District shall provide an updated notice reflecting the new allegations.</p>
Informal Resolution	The College District may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution of the complaint, the Title IX coordinator shall determine within three days if informal resolution is appropriate for the complaint. If the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution within ten days. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process. This process is not available in situations where an employee is alleged to have sexually harassed a student.
Formal Resolution	If the complaint is not subject to the informal resolution process, the Title IX coordinator shall authorize or undertake an investigation, except as provided below at Criminal or Regulatory Investigation.
Supportive Measures	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX coordinator shall promptly provide supportive measures intended to address prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive

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	<p>measures include academic accommodations, such as extensions of deadlines or other course-related adjustments and modifications of class schedules; housing and dining modifications; temporary removal from an education program or activity in accordance with law; counseling; health services; campus escort services; mutual restrictions on contact between the parties; and increased security and monitoring of certain areas of the campus.</p>
<p>College District Investigation</p>	<p>The investigation may be conducted by the Title IX coordinator or designee or by a third party designated by the College District, such as an attorney.</p> <p>The investigation may consist of personal interviews with the complainant, the respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p> <p>The parties shall be provided an equal opportunity to present witnesses and evidence and to inspect and review any directly related evidence obtained by the College District so that the parties may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate.</p> <p>At least ten days prior to the completion of the investigation report, the College District must send each party and the party's advisor evidence subject to inspection and review. The parties may submit a written response for consideration by the investigator.</p>
<p>Criminal or Regulatory Investigation</p>	<p>If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the College District's investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation. Any delay under this provision shall constitute good cause for an extension of timelines established by this policy and associated procedures.</p>
<p>Concluding the Investigation</p>	<p>The investigation shall be completed within a reasonable time, not to exceed 30 days from the date of the report.</p> <p>The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX coordinator within five days following the completion of the investigation.</p>

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Notification of the Report	<p>The Title IX coordinator shall provide the investigation report, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the complainant and the respondent promptly following receipt. The parties shall be given ten days to respond to the report.</p>
College District Action	<p>The Title IX coordinator shall submit the investigation report and any response from the parties to the vice president of student success and enrollment promptly after receipt of the parties' response but no later than the expiration of the parties' deadline to respond.</p> <p>The vice president of student success and enrollment or designee shall summon the parties for a hearing to be held within a reasonable time, not to exceed ten days, following the receipt of the investigation report. The hearing shall be conducted in accordance with law and College District procedures.</p> <p>After the hearing, the vice president of student success and enrollment or designee shall determine whether each individual allegation of prohibited conduct occurred using a preponderance of the evidence standard and determine the appropriate disciplinary or corrective action. In making the determination, the vice president of student success and enrollment or designee shall evaluate all relevant evidence objectively and shall not make credibility assessments based on a person's status as the complainant, the respondent, or a witness. The vice president of student success and enrollment or designee shall create a written determination regarding responsibility in accordance with law and College District procedures within five days following the hearing and submit the determination to the parties simultaneously.</p>
Disciplinary or Corrective Action	<p>If the vice president of student success and enrollment or designee determines that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.</p> <p>Examples of disciplinary or corrective action may include:</p> <ul style="list-style-type: none">• Implementing the disciplinary measures described in FM for students or DH and DM series for employees;• Providing a training program for those involved in the complaint;• Providing a comprehensive education program for the College District community;• Providing counseling for the victim and the party who engaged in prohibited conduct;

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- Permitting the victim or student who engaged in the prohibited conduct to drop a course in which they both are enrolled without penalty;
- Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;
- Involving students in efforts to identify problems and improve the College District climate;
- Increasing staff monitoring of areas where prohibited conduct has occurred;
- Reaffirming the College District's policy against discrimination and harassment; and
- Taking other actions described in College District regulations.

Exception

The College District shall minimize attempts to require a complainant to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College District shall be involved in an appropriate manner. In no event may a student be required to resolve a complaint of sexual harassment by an employee directly with the employee.

Improper Conduct

If the vice president of student success and enrollment or designee determines that improper conduct occurred that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.

Dismissal of Complaint

Mandatory Dismissal

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law.

Permissive Dismissal

Any complaint may be dismissed at any time on request of a complainant. The Title IX coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

A complaint may also be dismissed if specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the complaint or allegations.

Notice of Dismissal

Upon dismissal of a complaint, the Title IX coordinator or the vice president of student success and enrollment or designee shall provide the parties written notice of the dismissal.

Confidentiality

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To the greatest extent possible, consistent with law, the College District shall respect the privacy of the complainant or the respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to carry out the purposes of this policy and associated regulations and to comply with applicable law.

Retaliation

The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses to participate in an investigation, proceeding, or hearing under this policy. This prohibition does not apply to discipline of a person who perpetrated or assists in the perpetration of the prohibited conduct.

A person who is alleged to have experienced retaliation may pursue a claim under this policy or policy DIAA, as appropriate.

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

Failure to Report and False Claims

An employee who fails to make a required report or a student or employee who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College District investigation regarding prohibited conduct shall be subject to appropriate disciplinary action.

Appeal

**Discipline or
Corrective Action**

Students

Suspension

If the vice president of student success and enrollment or designee determines that a student committed prohibited conduct that warrants a suspension, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President. A conference shall be scheduled within ten days of the notice of determination in accordance with FMA, beginning at Appeal to College District Administration.

Expulsion

If the vice president of student success and enrollment or designee determines that the student committed prohibited conduct that warrants expulsion, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President to schedule an expulsion hearing before the Board in accordance with FMA.

Other Action

If the vice president of student success and enrollment or designee determines that the student committed prohibited conduct that warrants other discipline or corrective action, the vice president of student success and enrollment or designee shall inform the student that the student may appeal the determination within ten days

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in accordance with FMA, beginning at Appeal to College District Administration.

Employee

Suspension
Without Pay or
Termination of
Contract
Employees

If the vice president of student success and enrollment or designee determines that a contract employee committed prohibited conduct that warrants suspension without pay or termination mid-contract, the vice president of student success and enrollment or designee shall inform the employee in writing of the determination, and a Board hearing shall be scheduled in accordance with DMAA.

Other Action

If the vice president of student success and enrollment or designee determines that the employee committed prohibited conduct that warrants other discipline or corrective action, the vice president of student success and enrollment or designee shall inform the employee that the employee may appeal the determination within ten days in accordance with DGBA, beginning at Level Three.

Other Appeals

All other appeals related to this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]

Complaints Filed
with OCR

A party shall be informed of the party's right to file a complaint with the U.S. Department of Education Office for Civil Rights (OCR).

Records Retention

Retention of records shall be in accordance with the College District's records retention procedures. [See CIA]

**Access to Policy,
Procedures, and
Related Materials**

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to a student who makes a report.

¹ Title IX Coordinator email: <mailto:rapena@laredo.edu>

² Title IX/Sexual Misconduct webpage:
<https://www.laredo.edu/cms/TitleIX/>

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(LEGAL)

Note: This policy addresses complaints of discrimination, harassment, and retaliation based on race, color, national origin, religion, or disability targeting students. For additional legally referenced material relating to this subject matter, see FA(LEGAL). For discrimination, harassment, and retaliation of employees based on race, color, national origin, religion, or disability, see DIAB.

Grievance Policies

Section 504

A recipient of federal financial assistance that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act regulations). Such procedures need not be established with respect to complaints from applicants for employment. *34 C.F.R. 104.7(b)*

Americans with
Disabilities Act

A public entity, including a college district, that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by 28 C.F.R. Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107(b), .140*

Age Discrimination

A recipient of federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Act or the regulations. *34 C.F.R. 110.25(c)*

**Compliance
Coordinator**

Section 504

A recipient of federal financial assistance that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with 34 C.F.R. 104. *34 C.F.R. 104.7(a)*

ADA

A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph. *28 C.F.R. 35.107(a), .140*

Age Discrimination

Each recipient of federal financial assistance shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination Act of 1975 and 34 C.F.R. Part 110, including investigation of any complaints that the recipient receives alleging any actions that are prohibited by the Act and these regulations. A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the

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provisions of the Act and the associated regulations. The notification must also identify the responsible employee by name or title, address, and telephone number. *34 C.F.R. 110.25(a)–(b)*

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Note: This policy addresses complaints of discrimination, harassment, and retaliation based on race, color, national origin, religion, age, or disability targeting students. For legally referenced material relating to this subject matter, see FA(LEGAL). For discrimination, harassment, and retaliation targeting employees based on race, color, national origin, religion, age, or disability, see DIAB.

**Statement of
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any student on the basis of race, color, national origin, disability, religion, age, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, national origin, disability, religion, age, or on any other basis prohibited by law, that adversely affects the student.

**Prohibited
Harassment**

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct limits or denies a student's ability to participate in or benefit from the College District's educational program.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

Retaliation

The College District prohibits retaliation by a student or College District employee against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or otherwise participates in an investigation.

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

False Claims

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation

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	regarding discrimination or harassment shall be subject to appropriate disciplinary action.
Prohibited Conduct	In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.
Reporting Procedures	Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a responsible employee.
Student Report	
Employee Report	Any College District employee who suspects and any responsible employee who receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate College District official listed in this policy and shall take any other steps required by this policy.
<i>Exceptions</i>	<p>A person who holds a professional license requiring confidentiality, such as a counselor, or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student’s consent.</p> <p>A person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source shall not be required to disclose information regarding an incident of prohibited conduct that constitutes personally identifiable information about a student or other information that would indicate the student’s identity without the student’s consent, unless the person is disclosing information as required for inclusion in the College District’s annual security report under the Clery Act. [See GCC]</p>
Responsible Employee	<p>For purposes of this policy, a “responsible employee” is an employee:</p> <ol style="list-style-type: none">1. Who has the authority to remedy prohibited conduct.2. Who has been given the duty of reporting incidents of prohibited conduct.3. Whom a student reasonably believes has the authority to remedy prohibited conduct or has been given the duty of reporting incidents of prohibited conduct. <p>The College District designates the following persons as responsible employees: any instructor, any administrator, or any College District official defined below.</p>
Definition of College District Officials	For the purposes of this policy, College District officials are the ADA/Section 504 coordinator and the College President.

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ADA / Section 504 Coordinator	<p>Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:</p> <p>Name: Andrea Lopez</p> <p>Position: Director of Student Success Center</p> <p>Address: Fort McIntosh Campus, Lerma Pena, Room 220, West End Washington Street, Laredo, TX 78040</p> <p>Telephone: (956) 721-5135</p>
Other Anti- discrimination Laws	<p>The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.</p>
Alternative Reporting Procedures	<p>A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the ADA/Section 504 coordinator, may be directed to the College President.</p> <p>A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
Timely Reporting	<p>Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District's ability to investigate and address the prohibited conduct.</p>
Investigation of the Report	<p>The College District may request, but shall not require, a written report. If a report is made orally, the College District official shall reduce the report to written form.</p>
Initial Assessment	<p>Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official shall immediately authorize or undertake an investigation, except as provided below at Criminal Investigation.</p> <p>If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the College District official shall refer the complaint for consideration under the appropriate policy.</p>

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Interim Action	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District shall promptly take interim action calculated to address prohibited conduct prior to the completion of the College District's investigation.
College District Investigation	<p>The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. The investigator shall have received appropriate training regarding the issues related to the complaint and the relevant College District's policy and procedures.</p> <p>The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p>
Criminal Investigation	If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the College District's investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation.
Concluding the Investigation	<p>Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation should be completed within 15 College District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.</p> <p>The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.</p>
<i>Notification of the Outcome</i>	The College District shall provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed.
College District Action	If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct, in accordance with College District policy and procedures [see FM].
Prohibited Conduct	

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<i>Corrective Action</i>	Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the College District community, counseling for the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving students in efforts to identify problems and improve the College District climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the College District's policy against discrimination and harassment.
Improper Conduct	If the investigation reveals improper conduct that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.
Confidentiality	To the greatest extent possible, the College District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.
Appeal	A party who is dissatisfied with the outcome of the investigation may appeal through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members] A party shall be informed of his or her right to file a complaint with the U.S. Department of Education Office for Civil Rights.
Records Retention	Retention of records shall be in accordance with the College District's records retention procedures. [See CIA]
Access to Policy, Procedures, and Related Materials	Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed annually to College District employees and students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials shall also be prominently published on the College District's website, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to a student who makes a report.

Note: For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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Section I: Generally

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

An officer or employee of a political subdivision, including a college district, who is acting or purporting to act in an official capacity may not, because of the student's race, religion, color, sex, or national origin, refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the political subdivision; refuse to grant a benefit to the person; or impose an unreasonable burden on the person. *Civ. Prac. & Rem. Code 106.001(a)*

Section II: Religious Freedom

A governmental entity, including a college district, shall make no law prohibiting the free exercise of religion. *U.S. Const. Amends. I, XIV*

A government agency, including a college district, may not substantially burden a student's free exercise of religion, unless the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003*

Association with a
Religious
Organization

Notwithstanding any other law, a governmental entity, including a college district, may not take any adverse action against any person, as defined by Government Code 2400.001(4), based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

"Adverse action" means any action taken by a governmental entity to:

1. Withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;
2. Withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a person;
3. Alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;
4. Disallow a tax deduction for any charitable contribution made to or by a person;
5. Deny admission to, equal treatment in, or eligibility for a degree from an educational program or institution to a person; or

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6. Withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fundraising campaign from or to a person.

Gov't Code 2400.001(1), .002 [See GA]

Access for Religious Organizations During Disasters

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

Gov't Code 2401.002(b) [See GA]

**Section III:
Discrimination on
the Basis of Sex**

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. *20 U.S.C. 1681; 34 C.F.R. 106.31*

Educational programs and activities include:

1. Housing. *34 C.F.R. 106.32*
2. Comparable facilities. *34 C.F.R. 106.33*
3. Access to course offerings. *34 C.F.R. 106.34*
4. Counseling. *34 C.F.R. 106.36*
5. Financial assistance. *34 C.F.R. 106.37*
6. Employment assistance to students. *34 C.F.R. 106.38*
7. Health and insurance benefits and services. *34 C.F.R. 106.39*
8. Athletics. *34 C.F.R. 106.41*

**Pregnancy and
Marital Status**

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 C.F.R. 106.40(a)*

Sexual Harassment

Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools*, 503 U.S. 60 (1992) [See also FFDA]

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<i>Definition of Sexual Harassment</i>	Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling, however, even when the comments target differences in gender. <u><i>Davis v. Monroe County Bd. of Educ.</i></u> , 526 U.S. 629 (1999)
<i>Employee–Student Sexual Harassment</i>	An official of an educational entity who has authority to address alleged harassment by employees on the entity’s behalf shall take corrective measures to address the harassment or abuse. <u><i>Gebser v. Lago Vista Indep. Sch. Dist.</i></u> , 524 U.S. 274 (1998)
<i>Student–Student Sexual Harassment</i>	An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity’s disciplinary authority. <u><i>Davis v. Monroe County Bd. of Educ.</i></u> , 526 U.S. 629 (1999)
Clery Act—Campus Sexual Assault Programs	<p>An institution’s Clery Act annual security report [see GCC] must include a statement of policy regarding the institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking and of procedures that the institution will follow when one of these crimes is reported. The statement must include:</p> <ol style="list-style-type: none">1. A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as described below at Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking;2. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:<ol style="list-style-type: none">a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;b. How and to whom the alleged offense should be reported;c. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to:<ol style="list-style-type: none">(1) Notify proper law enforcement authorities, including on-campus and local police;

- (2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - (3) Decline to notify such authorities; and
 - d. Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;
- 3. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:
 - a. Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in the Violence Against Women Act of 1994, 42 U.S.C. 13925(a)(20); and
 - b. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;
- 4. A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
- 5. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
- 6. An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as described below at Procedures for Institutional Disciplinary Action; and

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7. A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in items 1 through 6 of this list.

20 U.S.C. 1092(f)(8); 34 C.F.R. 668.46(b)(11)

*Programs to
Prevent Dating
Violence,
Domestic
Violence, Sexual
Assault, and
Stalking*

An institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking. The statement must include:

1. A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include:
 - a. A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in 34 C.F.R. 668.46(a) [see Definitions];
 - b. The definition of "dating violence," "domestic violence," "sexual assault," and "stalking" in the applicable jurisdiction [see Penal Code 22.011, 22.021, 42.072; Family Code 71.0021, 71.004];
 - c. The definition of "consent," in reference to sexual activity, in the applicable jurisdiction;
 - d. A description of safe and positive options for bystander intervention;
 - e. Information on risk reduction; and
 - f. The information described in 34 C.F.R. 668.46(b)(11) and 34 C.F.R. 668.46(k)(2); and
2. A description of the institution's ongoing prevention and awareness campaigns for students and employees, including information described at item 1.

An institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the information required to be included in the statement.

34 C.F.R. 668.46(j)

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Awareness Programs	<p>“Awareness programs” means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration. 34 C.F.R. 668.46(j)(2)(i)</p>
Bystander Intervention	<p>“Bystander intervention” means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. 34 C.F.R. 668.46(j)(2)(ii)</p>
Ongoing Prevention and Awareness Campaigns	<p>“Ongoing prevention and awareness campaigns” means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in item 1, above. 34 C.F.R. 668.46(j)(2)(iii)</p>
Primary Prevention Programs	<p>“Primary prevention programs” means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. 34 C.F.R. 668.46(j)(2)(iv)</p>
Risk Reduction	<p>“Risk reduction” means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. 34 C.F.R. 668.46(j)(2)(v)</p>
<i>Procedures for Institutional Disciplinary Action</i>	<p>An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in 34 C.F.R. 668.46(a), and that:</p> <ol style="list-style-type: none">1. Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances

of an allegation of dating violence, domestic violence, sexual assault, or stalking;

2. Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;
3. Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and
4. Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking;
5. Provides that the proceedings will:
 - a. Include a prompt, fair, and impartial process from the initial investigation to the final result;
 - b. Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - c. Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
 - d. Not limit the choice of adviser or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
 - e. Require simultaneous notification, in writing, to both the accuser and the accused, of:
 - (1) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - (2) The institution's procedures for the accused and the victim to appeal the result of the institutional

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disciplinary proceeding, if such procedures are available;

(3) Any change to the result; and

(4) When such results become final.

34 C.F.R. 668.46(k)

Compliance with 34 C.F.R. 668.46(k) does not constitute a violation of Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g. *34 C.F.R. 668.46(l)*

Prompt, Fair,
and Impartial
Proceeding

“Prompt, fair, and impartial proceeding” includes a proceeding that is:

1. Completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;
2. Conducted in a manner that:
 - a. Is consistent with the institution's policies and transparent to the accuser and accused;
 - b. Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
 - c. Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
3. Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

34 C.F.R. 668.46(k)(3)(i)

Adviser

“Adviser” means any individual who provides the accuser or accused support, guidance, or advice. *34 C.F.R. 668.46(k)(3)(ii)*

Proceeding

“Proceeding” means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim. *34 C.F.R. 668.46(k)(3)(iii)*

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Result “Result” means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding FERPA, the result must also include the rationale for the result and the sanctions. *34 C.F.R. 668.46(k)(3)(iv)*

Definitions

Dating Violence

“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

34 C.F.R. 668.46(a)

Domestic
Violence

“Domestic violence” is a felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
5. By 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 jurisdiction in which the crime of violence occurred.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

34 C.F.R. 668.46(a)

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Programs to
Prevent Dating
Violence,
Domestic
Violence, Sexual
Assault, and
Stalking

“Programs to prevent dating violence, domestic violence, sexual assault, and stalking” means comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees, as defined in 34 C.F.R. 668.46(j)(2).

34 C.F.R. 668.46(a)

Sexual Assault

“Sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program and included in Appendix A of 34 C.F.R. Part 668, Subpart D. *34 C.F.R. 668.46(a)*

Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

34 C.F.R. 668.46(a)

**Section IV:
Discrimination on
the Basis of Race,
Color, or National
Origin**

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which 34 C.F.R. Part 100 applies.

A recipient under any program to which Part 100 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

1. Deny an individual any service, financial aid, or other benefit provided under the program;
2. Provide any service, financial aid, or other benefit to an individual that is different, or is provided in a different manner, from that provided to others under the program;
3. Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
6. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so that is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in 34 C.F.R. 100.3(c)); or
7. Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

A recipient, in determining the types of services, financial aid, or other benefits, or facilities that will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subject-

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ing individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

42 U.S.C. 2000d; 34 C.F.R. 100.3(a)–(b)

**Section V:
Discrimination on
the Basis of Age**

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance. *42 U.S.C. 6102; 34 C.F.R. 110.10*

Exceptions

*Normal Operation
or Statutory
Objective*

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

1. Age is used as a measure or approximation of one or more other characteristics;
2. The other characteristic or characteristics must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;
3. The other characteristic or characteristics can be reasonably measured or approximated by the use of age; and
4. The other characteristic or characteristics are impractical to measure directly on an individual basis.

34 C.F.R. 110.12

*Reasonable
Factors Other
Than Age*

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. *34 C.F.R. 110.13*

*Special Benefits
for Children and
the Elderly*

If a recipient operating a program or activity provides special benefits to the elderly or to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of 34 C.F.R. 110.12. *34 C.F.R. 110.16*

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<i>Affirmative Action</i>	Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age. <i>34 C.F.R. 110.15</i>
Notice	A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Age Discrimination Act of 1975 and the associated regulations. <i>34 C.F.R. 110.25(b)</i>
Section VI: Discrimination on the Basis of Disability ADA	Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. <i>42 U.S.C. 12132; 28 C.F.R. 35.130</i>
Section 504	Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. <i>29 U.S.C. 794(a)</i>
Disability	<p>“Disability” means, with respect to an individual:</p> <ol style="list-style-type: none">1. A physical or mental impairment that substantially limits one or more major life activities of an individual;2. A record of having such an impairment; or3. Being regarded as having such an impairment. <p>An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.</p> <p>The term “disability” does not include:</p> <ol style="list-style-type: none">1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;2. Compulsive gambling, kleptomania, or pyromania; or3. Psychoactive substance use disorders resulting from current illegal use of drugs. <p><i>42 U.S.C. 12102(1), (4)(C)–(D); 28 C.F.R. 35.108(a), (d), (g)</i></p>

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*Regarded as
Having Such an
Impairment*

An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. *42 U.S.C. 12102(3)(A); 28 C.F.R. 35.108(f)*

Transitory and
Minor

Item 3 in the definition of “Disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 28 C.F.R. 35.108(d)(1)(ix), (f)(2)*

*Mitigating
Measures*

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; learned behavioral or adaptive neurological modifications; or psychotherapy, behavioral therapy, or physical therapy.

The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

42 U.S.C. 12102(4)(E); 28 C.F.R. 35.108(d)(1)(viii), (4)

*Major Life
Activities*

“Major life activities” include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
2. The operation of a major bodily function, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function

includes the operation of an individual organ within a body system.

In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard. Whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life.

42 U.S.C. 12102(2); 28 C.F.R. 35.108(c)–(d)

*Physical or
Mental
Impairment*

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Physical or mental impairment does not include homosexuality or bisexuality.

28 C.F.R. 35.108(b)

*Qualified Individual
with a Disability*

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. *42 U.S.C. 12131(2); 28 C.F.R. 35.104*

*Individual with a
Disability*

"Individual with a disability" means a person who has a disability. The term individual with a disability does not include an individual

	<p>who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. <i>28 C.F.R. 35.104</i></p>
Student with a Disability	<p>A “student with a disability” is one who has a physical or mental impairment that substantially limits one or more of the student’s major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.</p> <p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.</p> <p>An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.</p> <p>A student meets the requirement of being “regarded as” having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.</p> <p><i>29 U.S.C. 705(20)(B); 42 U.S.C. 12102(1), (3)–(4)</i></p>
Reasonable Modification	<p>A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.</p> <p>A public entity is not required to provide a reasonable modification to an individual who meets the definition of “disability” solely under the “regarded as” prong of the definition of “disability” at <i>28 C.F.R. 35.108(a)(1)(iii)</i>.</p> <p><i>28 C.F.R. 35.130(b)(7)</i></p>
Communications	<p>A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public, and companions with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary</p>

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aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. In determining what types of auxiliary aids or services are necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. *28 C.F.R. 35.160*

*Auxiliary Aids
and Services*

“Auxiliary aids and services” include:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods for making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

28 C.F.R. 35.104

*Limits of
Required
Modification*

Title 28 C.F.R. Chapter I, Part 35, Subpart E does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her de-

signee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

Direct Threat

The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of the public entity when that individual poses a direct threat to the health or safety of others.

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided below.

28 C.F.R. 35.104

In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. 35.139

Services Inventory

The Coordinating Board shall maintain an inventory of all postsecondary educational programs and services provided for persons with intellectual and developmental disabilities by institutions of higher education. The Coordinating Board shall:

1. Post the inventory on the Coordinating Board's internet website in an easily identifiable and accessible location;
2. Submit the inventory to TEA for inclusion in the transition and employment guide under Education Code 29.0112; and
3. Update the inventory at least once every two years.

At times prescribed by the Coordinating Board, each institution of higher education, including each college district, shall report to the Coordinating Board all programs and services described above provided by that institution.

Education Code 61.0663

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**Section VII:
Retaliation**

No recipient of federal financial assistance or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Title IX, or Section 504 or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under 34 C.F.R. Parts 100, 104, or 106. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

**Section VIII:
Handgun License as
Proof of
Identification**

A person may not deny the holder of a concealed handgun license issued under Government Code Chapter 411, Subchapter H access to goods, services, or facilities, except as provided by Transportation Code 521.460 (regarding motor vehicle rentals) or in regard to the operation of a motor vehicle, because the holder has or presents a concealed handgun license rather than a driver's license or other acceptable form of personal identification.

This section does not affect the requirement under Government Code 411.205 that a person present a driver's license or identification certificate in addition to a concealed handgun license.

Business and Commerce Code 506.001

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Guiding Principles

Informal Process

The College District encourages students to discuss their concerns with the appropriate faculty member or other campus administrator who has the authority to address the concerns.

Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

Formal Process

A student may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, students are encouraged to seek informal resolution of their concerns. A student whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Freedom from Retaliation

Neither the Board nor any College District employee shall unlawfully retaliate against any student for bringing a concern or complaint.

Notice to Students

The College District shall inform students of this policy through appropriate College District publications.

Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes

Student complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with FLD after the relevant complaint process:

1. Complaints alleging discrimination or harassment based on race, color, gender, sex, national origin, disability, age, or religion. [See FFDA and FFDB]
2. Complaints concerning retaliation relating to discrimination and harassment. [See FFDA and FFDB]
3. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]
4. Complaints concerning the withdrawal of consent to remain on campus. [See GDA]

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General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

Scheduling
Conferences

The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student fails to appear at a scheduled conference, the College District may hold the conference and issue a decision in the student's absence.

Response

At Levels One, Two, and Three, "response" shall mean a written communication to the student from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the student's email address of record, or sent by U.S. Mail to the student's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

Days

"Days" shall mean College District business days. In calculating time lines under this policy, the day a document is filed is "day zero." The following day is "day one."

Representative

"Representative" shall mean any person who or organization that is designated by the student to represent the student in the complaint process.

The student may designate a representative through written notice to the College District at any level of this process. If the student designates a representative with fewer than three days' notice to the College District before a scheduled conference or hearing, the College District may reschedule the conference or hearing to a later date, if desired, in order to include the College District's counsel. The College District may be represented by counsel at any level of the process.

**Consolidating
Complaints**

Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

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Untimely Filings

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the student, at any point during the complaint process. The student may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

**Complaint and
Appeal Forms**

Complaints and appeals under this policy shall be submitted in writing on a form provided by the College District.

Copies of any documents that support the complaint should be attached to the complaint form. If the student does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student unless the student did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the student first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, students shall file Level One complaints with the department chairperson or student services counselor. If the only administrator who has authority to remedy the alleged problem is the Level Two or Level Three administrator, the complaint may begin at Level Two or Level Three, respectively, following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

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The appropriate administrator shall investigate as necessary and schedule a conference with the student within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the student a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the student did not receive the relief requested at Level One or if the time for a response has expired, the student may request a conference with the academic dean or dean of students to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the College District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The student may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the student at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the student may provide information concerning any documents or information relied on by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the student a written response within ten days following the conference. The written re-

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sponse shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the student did not receive the relief requested at Level Two or if the time for a response has expired, the student may request a conference with the College President or designee to appeal the Level Two decision.

The appeal notice must be filed in writing, on a form provided by the College District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two complaint to the Level Three administrator. The student may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the Level Two administrator in reaching the Level Two decision.

The Level Three administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level Two. At the conference, the student may provide information concerning any documents or information relied on by the administration for the Level Two decision. The Level Three administrator may set reasonable time limits for the conference.

The Level Three administrator shall provide the student a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Three administrator may consider the Level One and Level Two record, information provided at the Level Three conference, and any other relevant documents or information the Level Three administrator believes will help resolve the complaint.

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Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

Level Four

If the student did not receive the relief requested at Level Three or if the time for a response has expired, the student may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the College District, within ten days after receipt of the written Level Three response, or, if no response was received, within ten days of the Level Three response deadline.

The College President or designee shall inform the student of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The College President or designee shall provide the Board the record of the Level Three complaint. The student may request a copy of the Level Three record.

The Level Three record shall include:

1. The Level One record.
2. The Level Two record.
3. The written response issued at Level Three and any attachments.
4. All other documents relied upon by the administration in reaching the Level Three decision.

The appeal shall be limited to the issues and documents considered at Level Three, except that if at the Level Four hearing the administration intends to rely on evidence not included in the Level Three record, the administration shall provide the student notice of the nature of the evidence at least three days before the hearing.

The College District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BD]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Four

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presentation. The Level Four presentation, including the presentation by the student or the student's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Three.

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**Code of Student
Conduct and
Discipline**

The College District's primary concern is the student. It attempts to provide for all students an environment that is conducive to academic endeavor, social growth, and individual self-discipline. The College District presumes that the student has an earnest purpose and studious and courteous habits, and this presumption in the student's favor continues until, by the neglect of duty or misconduct, the student reverses it. Every student is expected to obey all federal, state, and local laws and College District regulations and is expected to familiarize himself or herself with the requirements of such laws. Any student who violates any provision of those laws shall be subject to disciplinary action, including expulsion, notwithstanding any action taken by civil authorities on account of the violation. The College District reaffirms to each student the privilege of exercising his or her rights of citizenship under the Constitution of the United States. Special care shall be taken to ensure due process and to spell out defined routes of appeal when a student feels his or her rights have been violated.

**Acquaintance with
Policies, Rules, and
Regulations**

Each student is expected to be fully acquainted with all published policies, rules, and regulations of the College District, copies of which shall be available to each student for review in the College District catalog, student handbook, and policy manual, each of which can be viewed online or at the office of the associate dean of students/Title IX coordinator. The College District will hold each student responsible for compliance with these policies, rules, and regulations.

Student

A "student" shall mean an individual who is currently enrolled in the College District and any prospective or former student who has been accepted for admission or readmission to any component institution while on the premises of any component institution.

Premises

The "premises" of the College District is defined as all real property over which the College District has possession and control.

Student Misconduct

Federal, State, and
Local Law

Violations of federal, state, or local law or College District policies, procedures, or rules, including the student handbook shall be prohibited.

Prohibited Weapons
and Devices

Possession, distribution, sale, or use of firearms, location-restricted knives, clubs, knuckles, firearm silencers, or other prohibited weapons or devices in violation of law or College District policies and procedures shall be prohibited. [See CHF]

Drugs and Alcohol

Behaviors regarding drugs and alcohol and associated paraphernalia shall be prohibited as described in policy FLBE.

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Debts	Owing a monetary debt to the College District that is considered delinquent or writing an "insufficient funds" check to the College District shall be prohibited.
Disruptions	<p>The following behavior regarding disorderly conduct or disruptive behavior occurring on premises owned or controlled by the College District shall be prohibited:</p> <ol style="list-style-type: none">1. Behavior of a boisterous and tumultuous character such that there is a clear and present danger of alarming persons where no legitimate reason for alarm exists.2. Interference with the peaceful and lawful conduct of persons under circumstances in which there is reason to believe that such conduct will cause or provoke a disturbance.3. Violent and forceful behavior at any time such that there is a clear and present danger that free movement of other persons will be impaired.4. Behavior involving personal abuse or assault when such behavior creates a clear and present danger of causing assaults or fights.5. Violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which there is reason to believe that such conduct will cause or provoke a disturbance.6. Willful and malicious behavior that interrupts the speaker of any lawful assembly or impairs the lawful right of others to participate effectively in such assembly or meeting when there is reason to believe that such conduct will cause or provoke a disturbance.7. Willful and malicious behavior that obstructs or causes the obstruction of any doorway, hall, or any other passageway in a College District building to such an extent that the employees, officers, and other persons, including visitors, having business with the College District are denied entrance into, exit from, or free passage in such building.8. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other College District activities, including public service functions, or other authorized activities on College District premises.
Behavior Targeting Others	<p>The following behavior targeting others shall be prohibited:</p> <ol style="list-style-type: none">1. Threatening another person, including a student or employee;

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2. Intentionally, knowingly, or negligently causing physical harm to any person;
3. Engaging in conduct that constitutes harassment, sexual assault, dating violence, stalking, or bullying directed toward another person, including a student or employee; [See DIA series, FFD series, and FFE as appropriate]
4. Hazing with or without the consent of a student; [See FLBC]
5. Initiations by organizations that include features that are dangerous, harmful, or degrading to the student, a violation of which also renders the organization subject to appropriate discipline; and
6. Endangering the health or safety of members of the College District community or visitors to the premises.

Property

The following behavior regarding property shall be prohibited:

1. Intentionally, knowingly, or negligently defacing, damaging, misusing, or destroying College District property or property owned by others;
2. Stealing from the College District or others; and
3. Theft, sabotage, destruction, distribution, or other use of the intellectual property of the College District or third parties without permission.

Directives

Failure to comply with directives given by College District personnel and failure to provide identification when requested to do so by College District personnel shall be prohibited.

Tobacco and E-cigarettes

Possession or use of tobacco products or e-cigarettes on College District property shall be prohibited. [See FLBD]

Misuse of Technology

The following behavior regarding misuse of technology shall be prohibited:

1. Violating policies, rules, or agreements signed by the student regarding the use of technology resources;
2. Attempting to access or circumvent passwords or other security-related information of the College District, students, or employees or uploading or creating computer viruses;
3. Attempting to alter, destroy, disable, or restrict access to College District technology resources including but not limited to computers and related equipment, College District data, the data of others, or other networks connected to the College District's system without permission;

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4. Using the internet or other electronic communications to threaten College District students, employees, or volunteers;
5. Sending, posting, or possessing electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal;
6. Using email or websites to engage in or encourage illegal behavior or threaten the safety of the College District, students, employees, or visitors; and
7. Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten the safety of the College District, students, employees, or visitors.

Dishonesty

The following behavior regarding dishonesty shall be prohibited:

1. Making false accusations or perpetrating hoaxes regarding the safety of the College District, students, employees, or visitors;
2. Intentionally or knowingly providing false information to the College District; and
3. Intentionally or knowingly falsifying records, passes, or other College District-related documents.

Gambling and Other Conduct

Gambling or engaging in any other conduct that College District officials might reasonably believe will substantially disrupt the College District program or incite violence shall be prohibited.

Use of Electronic Devices

The use of an electronic device shall not interfere with instructional, administrative, student, public service, and other authorized activities on College District premises. Unless prior authorization is obtained from the instructor or respective College District official, the use of an electronic device is expressly prohibited in classrooms, laboratories, clinical settings, and designated quiet areas on College District premises. Certain violations of this policy may be excused in the case of emergencies or other extenuating circumstances provided that prior approval is obtained from the instructor or respective College District official.

The use of electronic equipment capable of capturing still or moving images in any location where individuals may reasonably expect a right to privacy is not authorized on College District premises. Noncompliance with these provisions shall be considered a violation of Board-adopted policy and shall warrant appropriate disciplinary action.

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Scholastic
Dishonesty

“Scholastic dishonesty” shall include, but not be limited to, cheating, plagiarism, and collusion.

“Cheating” shall include, but not be limited to:

1. Copying from another student’s test or class work;
2. Using test materials not authorized by the person administering the test;
3. Collaborating with or seeking aid from another student during a test without permission from the test administrator;
4. Knowingly using, buying, selling, stealing, or soliciting, in whole or in part, the contents of an unadministered test, paper, or another assignment;
5. The unauthorized transporting or removal, in whole or in part, of the contents of the unadministered test;
6. Substituting for another student, or permitting another student to substitute for oneself, to take a test;
7. Bribing another person to obtain an unadministered test or information about an unadministered test; or
8. Manipulating a test, assignment, or final course grades.

“Plagiarism” shall be defined as the appropriating, buying, receiving as a gift, or obtaining by any means another’s work and the unacknowledged submission or incorporation of it in one’s own written work.

“Collusion” shall be defined as the unauthorized collaboration with another person in preparing written work for fulfillment of course requirements.

Procedures for discipline due to scholastic dishonesty shall be the same as for student disciplinary actions, except that all scholastic dishonesty actions shall be first considered and reviewed by the faculty member.

**Suspended Student
Restriction**

No student who has been suspended from the College District for disciplinary reasons shall be permitted on the campus of the College District during the period of such suspension without the prior written approval of the designated administrator of the College District.

**Procedure for
Administration of
Discipline**

College District faculty and staff shall submit an alleged violation or violations of College District policies and procedures, including the rules for student conduct described in this policy, committed by a student to the designated administrator of the College District

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within a reasonable time following an alleged incident, not to exceed ten College District business days. The allegations must be submitted in writing, through traditional or electronic means, and must describe the violation and any surrounding facts.

The designated administrator of the College District is the agent within the College District who has the responsibility for student conduct. The designated administrator of the College District shall be responsible to the vice president of student success and enrollment for recommending the formulation and revision of policies and enforcement procedures relating to student conduct and disposal and referral of such individual cases as may properly come before him or her.

**Student Disciplinary
Hearings**

The designated administrator of the College District shall be responsible for conducting student disciplinary hearings. Upon receipt of a report alleging misconduct, the designated administrator of the College District shall investigate the matter, as necessary. The student shall be summoned by the designated administrator of the College District for a conference to be held within a reasonable time, not to exceed ten College District business days, following receipt of the allegation of misconduct. A second summons may be sent if necessary. Failure of the student to report after two notices may result in suspension from the College District. Based on a review of pertinent information, it shall be the responsibility of the designated administrator of the College District to determine if a violation of the code of student conduct and discipline has occurred. After discussion with the student and after a determination that the charges are founded, the designated administrator of the College District shall assess the penalty appropriate to the charges and inform the student of such action in writing. The student shall be informed that the decision of the designated administrator of the College District may be reviewed through established appeal procedures.

**Appeal to the
Designated Vice
President**

Within five College District business days after the decision has been made by the designated administrator of the College District, the student may give notice of appeal in writing and delivered to the office of the designated vice president. Both parties may, at the discretion of the designated vice president, submit oral or written arguments to support their positions. In order for the appeal to be considered, all the necessary documentation must be filed by the appealing party, including written arguments when appropriate, with the designated vice president within ten College District business days after notice of appeal is given.

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**Review by the
Designated Vice
President**

The designated vice president may approve, reject, or modify the decision in question. After discussion with the student, and if a determination is made that the charges are founded, the designated vice president shall assess the penalty appropriate to the charges and inform the student of such action in writing. The student shall be informed that the decision may be reviewed through established appeal procedures.

**Appeal to the
College President**

Within five College District business days after the decision has been made by the designated vice president, the student may give notice of appeal to the College President. Notice of appeal must be made in writing and delivered to the College President. Both parties may, at the discretion of the College President, submit oral or written arguments to support their positions. In order for the appeal to be considered, all the necessary documentation must be filed by the appealing party, including written arguments when appropriate, with the College President within ten College District business days after notice of appeal is given.

**Review by the
College President**

The College President may approve, reject, or modify the decision in question. After discussion with the student, and if a determination is made that the charges are founded, the College President shall assess the penalty appropriate to the charges and inform the student of such action in writing.

Appeal to the Board

The student shall have the right to appeal his or her case to the Board by submitting a written request through the College President within ten College District business days following the decision rendered by the College President. The appellant may be represented by legal counsel in this appeal to the Board. The meeting of the Board to hear the student's appeal shall allow sufficient time for the student appellant and the institutional representatives to present the salient facts pertaining to the issue in question. The appellant may present his or her appeal or may have counsel to present his or her appeal to the Board following due process in the hearings and a determination thereof.

**Board's Right to
Review**

The Board shall have the right to review any student disciplinary action and approve, reject, or modify the decision.

**Interim Disciplinary
Action**

The designated administrator or the designated vice president of the College District may take immediate interim disciplinary action, including suspension, pending a hearing against a student for violation of a rule or regulation of the College District when the continuing presence of the student poses a danger to persons or property or an ongoing threat of disrupting the academic process. In such cases, the designated administrator or the designated vice

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president shall, if possible, meet with the student prior to suspension, discuss the reasons for interim suspension, and allow the student to explain his or her objections pending a full hearing.

Immediate interim disciplinary action, including suspension, may be taken against any student who owes a monetary debt that is considered delinquent to the College District. Established procedures developed by the office of the bursar shall address student conditions to resolve this monetary debt. Failure to follow these established conditions shall result in the student's removal from the College District.

**Recording of
Disciplinary Action**

The College District shall maintain confidential records of all disciplinary actions. The College District may expunge those records within five years after the student ceases to be enrolled.

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Note: For complaints of discrimination, harassment, and retaliation targeting employees on the basis of a protected characteristic, see DIAA(LEGAL) and DIAB(LEGAL).

**Title VII—
Discrimination on
the Basis of Sex,
Race, Color,
Religion, or National
Origin**

Generally

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin or to limit, segregate, or classify the individual's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of such individual's race, color, religion, sex, or national origin. *42 U.S.C. 2000e-2(a)*

Terminating an employee on the basis of the employee's homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020)

Title VII proscribes not only overt discrimination (disparate treatment) but also employment practices that are fair in form but discriminatory in operation (disparate impact). *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989)

*Disparate
Treatment*

Disparate treatment occurs where members of a race, sex, or ethnic group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. *29 C.F.R. 1607.11*

Disparate Impact

An unlawful employment practice based on disparate impact is established only if a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that the challenged practice is job-related and consistent with business necessity. *42 U.S.C. 2000e-2(k)(1)(A)*

Training

It shall be an unlawful employment practice for any employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual be-

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	cause of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training. <i>42 U.S.C. 2000e-2(d)</i>
Job Qualification	It shall not be an unlawful employment practice for an employer to hire and employ an employee on the basis of his religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. <i>42 U.S.C. 2000e-2(e)</i>
Employment Postings	It shall be an unlawful employment practice for an employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification. <i>42 U.S.C. 2000e-3(b)</i>
Additional Considerations Sex Discrimination Gender Stereotypes Pregnancy	<p>An employer, including a college district, may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. <u><i>Price Waterhouse v. Hopkins</i></u>, 490 U.S. 228 (1989)</p> <p>The terms “because of sex” or “on the basis of sex” include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in 29 U.S.C. 2000e-2(h) shall be interpreted to permit otherwise. <i>42 U.S.C. 2000e(k)</i></p>
Equal Pay	No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite

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sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, or responsibility, and which are performed under similar working conditions, except where such payment is pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. 29 U.S.C. 206(d); 34 C.F.R. 106.54

*Religious
Discrimination*

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless an employer demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the employer's business. "Undue hardship" means more than a *de minimus* (minimal) cost. 42 U.S.C. 2000e(j); 29 C.F.R. 1605.2

Note: See State Law, below, for state prohibitions on discrimination based on race, color, religion, sex, or national origin.

**Title VII—
Harassment of
Employees on the
Basis of Sex, Race,
Color, Religion, and
National Origin**

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)

Harassment on the basis of sex is a violation of Title VII, 42 U.S.C. 2000e-2.

The Equal Employment Opportunity Commission (EEOC) has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.

42 U.S.C. 2000e-2; 29 C.F.R. 1606.8(a), 1604.11(a)

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. Oncale v. Sun-downer Offshore Services, Inc., 523 U.S. 75 (1998)

Hostile Environment

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

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2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); *Nat'l Railroad Passenger Corp. v. Morgan*, 536 U.S. 101 (2002); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8

Quid Pro Quo

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)

Sexual Harassment Policy

An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. 29 C.F.R. 1604.11(f)

Corrective Action

With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment or harassment in the workplace on the basis of national origin in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace or harassment of employees in the workplace on the basis of national origin, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the EEOC will consider the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of such non-employees.

29 C.F.R. 1604.11(d)–(e), 1606.8(d)–(e)

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When no tangible employment action is taken, an employer may raise the following affirmative defense:

1. That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)

Note: For related information regarding Title IX and the Clery Act see FA(LEGAL).

**ADEA—Age
Discrimination**

It shall be unlawful for an employer:

1. To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age;
2. To limit, segregate, or classify his employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's age; or
3. To reduce the wage rate of any employee in order to comply with 29 U.S.C. Chapter 14.

29 U.S.C. 623(a)

It shall not be unlawful for an employer:

1. To take any action otherwise prohibited under 29 U.S.C. 623(a) where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;
2. To take any action otherwise prohibited under 29 U.S.C. 623(a):
 - a. To observe the terms of a bona fide seniority system that is not intended to evade the purposes of 29 U.S.C.

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Chapter 14, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual; or

- b. To observe the terms of a bona fide employee benefit plan in compliance with 29 U.S.C. 623. No such employee benefit plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual.
3. To discharge or otherwise discipline an individual for good cause.

29 U.S.C. 623(f)

It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment because such individual has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under 29 U.S.C. Chapter 14. *29 U.S.C. 623(d)*

Note: See State Law, below, for state prohibitions on discrimination based on age.

**ADA and Section 504
—Disability
Discrimination**

No covered entity, including a college district, shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b)*

Discrimination
Based on Lack of
Disability

Nothing in the Americans with Disabilities Act (ADA), 42 U.S.C. Chapter 126, shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b)*

Definition of
Disability

“Disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more major life activities of an individual;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

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	<p>An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.</p> <p><i>42 U.S.C. 12102(1), (4)(C)–(D); 29 C.F.R. 1630.2(g), (j)(1), .3</i></p>
<p><i>Regarded as Having Such an Impairment</i></p>	<p>An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.</p> <p><i>42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)</i></p>
<p>Transitory and Minor</p>	<p>Item 3 in the definition of “disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. <i>42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)</i></p>
<p><i>Mitigating Measures</i></p>	<p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.</p> <p>The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.</p> <p>“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.</p> <p>“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.</p> <p><i>42 U.S.C. 12102(4)(E)</i></p>
<p>Other Definitions</p>	<p>“Major life activities” include, but are not limited to:</p>
<p><i>Major Life Activities</i></p>	<ol style="list-style-type: none">1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and

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2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i)

*Physical or
Mental
Impairment*

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

*Qualified
Individual*

“Qualified” with respect to an individual with a disability, means that the individual:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and
2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written job description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)

*Reasonable
Accommodation*

A covered entity is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong or “record of disability” prong, but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong. [See DBB regarding medical examinations and inquiries under the Americans

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with Disabilities Act] 29 U.S.C. 794, 42 U.S.C. 12112(b)(5);
29 C.F.R. 1630.2(o)(4), .9, 34 C.F.R. 104.11

“Reasonable accommodation” may include:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)

Undue Hardship

“Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include the nature and cost of the accommodation needed, the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the overall financial resources of the covered entity, the type of operation or operations of the covered entity, and other factors set out in 42 U.S.C. 12111(10). 42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)

Discrimination
Based on
Relationship

It is unlawful for a covered entity to exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. 42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8

Illegal Drugs and
Alcohol

A qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use. 42 U.S.C. 12114(a); 29 C.F.R. 1630.3(a)

Drug Testing

Nothing in 42 U.S.C. Chapter 126, Subchapter I shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the results of such tests. [See DHA] 42 U.S.C. 12114(d)(2); 29 C.F.R. 1630.3(c), .16(c)

Alcohol Use

The term “individual with a disability” does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse,

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	would constitute a direct threat to property or the safety of others. 29 U.S.C. 705(20)(C)(v); 42 U.S.C. 12114(a); 29 C.F.R. 1630.16(b)
Qualification Standards	It is unlawful for a covered entity to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity. 29 C.F.R. 1630.10(a)
<i>Direct Threat to Health or Safety</i>	The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. The determination that an individual poses a "direct threat" shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. 42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)
<i>Vision Standards and Tests</i>	A covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity. 42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)
<i>Communicable Diseases</i>	In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the U.S. Secretary of Health and Human Services under 42 U.S.C. 12113(e)(1), and that cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign an individual to a job involving food handling. 42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)
Service Animals	A covered entity that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (employment discrimination), shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See Reasonable Accommodations, above]

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A covered entity that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FAA].

28 C.F.R. 35.140

Note: See State Law, below, for state prohibitions on discrimination based on disability.

Military Service

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership, application for membership, performance of service, application for service, or obligation.

An employer, including a college district, may not discriminate in employment against or take any adverse employment action against any person because such person has taken action to enforce protections afforded any person under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. Chapter 43, has testified or otherwise made a statement in or in connection with any proceeding under USERRA, has assisted or otherwise participated in an investigation under USERRA, or has exercised a right provided for in USERRA.

38 U.S.C. 4311 [See DECB]

Bankruptcy

A governmental unit, including a college district, may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under U.S.C. Title 11 or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under Title 11 or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under Title 11, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under Title 11 or that was discharged under the Bankruptcy Act. *11 U.S.C. 525(a)*

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Retaliation

An employer, including a college district, may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. 29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 C.F.R. 100.7(e) (Title VI); 34 C.F.R. 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX)

Note: See State Law, below, for state prohibitions on retaliation.

State Law

Unlawful
Employment
Practice

An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

An employer commits an unlawful employment practice if it aids, abets, incites, or coerces a person to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age.

Labor Code 21.051; 40 TAC 819.12(a), (f)

Disparate Impact

An unlawful employment practice based on disparate impact is established under Labor Code Chapter 21 only if a complainant demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, sex, national origin, religion, or disability and the respondent fails to demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity; or the complainant makes the demonstration in accordance with federal law as that law existed June 4, 1989, with respect to the concept of alternative employment practices, and the respondent refuses to adopt such an alternative employment practice. To demonstrate that a particular employment practice causes a disparate impact, the complainant must demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complainant demonstrates to the satisfaction of the court that the elements of a respondent's decision-making process are not capable of separation for analysis, that decision-making process may

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	be analyzed as one employment practice. <i>Labor Code 21.122(a), (c)</i>
<i>Exception</i>	An employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited by Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21; and is justified by business necessity. <i>Labor Code 21.115(a)</i>
Job Training Programs	Unless a training or retraining opportunity or program is provided under an affirmative action plan approved under a federal law, rule, or order, an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, or committee discriminates against an individual because of race, color, disability, religion, sex, national origin, or age in admission to or participation in the program. <i>Labor Code 21.054</i>
Selection Criterion	An employer may not use a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies. <i>Labor Code 21.115(b)</i>
<i>Bona Fide Occupational Qualification</i>	<p>If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice:</p> <ol style="list-style-type: none">1. An employer hiring and employing an employee;2. An employment agency classifying or referring an individual for employment; or3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program. <p><i>Labor Code 21.119</i></p>
Job Advertisement	An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be

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printed or published a notice or advertisement relating to employment that:

1. Indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
2. Concerns an employee's status, employment, or admission to or membership or participation in a labor union or training or retraining program.

Labor Code 21.059 does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification.

Labor Code 21.059; 40 TAC 819.12(i)

Bona Fide
Employee Benefit
Plan

An employer does not commit an unlawful employment practice by applying different standards of compensation or different terms, conditions, or privileges of employment under a bona fide seniority system, merit system, or an employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade Labor Code Chapter 21; or a system that measures earnings by quantity or quality of production. *Labor Code 21.102(a)*

Exception

An employee benefit plan may not excuse a failure to hire on the basis of age. A seniority system or employee benefit plan may not require or permit involuntary retirement on the basis of age except as permitted by Labor Code 21.103.

This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

Labor Code 21.102(b)–(c)

Additional
Considerations
*Sexual
Harassment*

"Employer" means a person who employs one or more employees or acts directly in the interests of an employer in relation to an employee.

"Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

1. Submission to the advance, request, or conduct is made a term or condition of an individual's employment, either explicitly or implicitly;
2. Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment;

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3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

An employer commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors:

1. Know or should have known that the conduct constituting sexual harassment was occurring; and
2. Fail to take immediate and appropriate corrective action.

Labor Code 21.141–.142

*Pregnancy
Discrimination*

A provision in Labor Code Chapter 21 referring to discrimination because of sex or on the basis of sex includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition. A woman affected by pregnancy, childbirth, or a related medical condition shall be treated for all purposes related to employment, including receipt of a benefit under a fringe benefit program, in the same manner as another individual not affected but similar in the individual's ability or inability to work. *Labor Code 21.106*

*Religious
Discrimination*

A provision in Chapter 21 referring to discrimination because of religion or on the basis of religion applies to discrimination because of or on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that the employer is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship to the conduct of the employer's business. *Labor Code 21.108*

A government agency, including a college district, may not substantially burden a person's free exercise of religion. The prohibition does not apply if the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. and Rem. Code 110.003(a)–(b)*

*Association with
a Religious
Organization*

Notwithstanding any other law, a governmental entity, including a college district, may not take any adverse action against any person, as defined by Government Code 2400.001(4), based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

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"Adverse action" means any action taken by a governmental entity to:

1. Withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;
2. Withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a person;
3. Alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;
4. Disallow a tax deduction for any charitable contribution made to or by a person;
5. Deny admission to, equal treatment in, or eligibility for a degree from an educational program or institution to a person; or
6. Withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fundraising campaign from or to a person.

Gov't Code 2400.001(1), .002 [See GA]

*Access for
Religious
Organizations
During Disasters*

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

Gov't Code 2401.002(b) [See GA]

*Age
Discrimination*

The provisions of Labor Code Chapter 21 referring to discrimination because of age or on the basis of age apply only to discrimination against an individual 40 years of age or older. *Labor Code 21.101*

*Discrimination
Based on Lack of
Disability*

Nothing in this chapter may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability. *Labor Code 21.005(c)*

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<i>Reasonable Accommodation</i>	<p>It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent. A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability.</p> <p><i>Labor Code 21.128(a)–(b)</i></p>
Official Oppression	<p>A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.</p> <p>"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. An offense under this section is a Class A misdemeanor.</p> <p><i>Penal Code 39.03(a), (c)–(d)</i></p>
Sexual Harassment of Unpaid Interns	<p>An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:</p> <ol style="list-style-type: none">1. Know or should have known that the conduct constituting sexual harassment was occurring; and2. Fail to take immediate and appropriate corrective action. <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none">1. The individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;2. The individual's internship experience is for the individual's benefit;3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;4. The employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;

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5. The individual is not entitled to a job at the conclusion of the internship; and
6. The individual is not entitled to wages for the time spent in the internship.

"Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

1. Submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;
2. Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Labor Code 21.1065

Retaliation

An employer commits an unlawful employment practice if the employer, labor union, or employment agency retaliates or discriminates against a person who, under Labor Code Chapter 21 opposes a discriminatory practice; makes or files a charge; files a complaint; or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing. *Labor Code 21.055; 40 TAC 819.12(e)*

Notices

Title VII

Every employer, including each college district, shall post and keep posted in conspicuous places upon its premises, where notices to employees, applicants for employment, and members are customarily posted, a notice to be prepared or approved by the Equal Employment Opportunity Commission (EEOC) setting forth excerpts from or, summaries of, the pertinent provisions of 42 U.S.C. Chapter 21, Subchapter VI and information pertinent to the filing of a complaint. *42 U.S.C. 2000e-10*

ADEA

Every employer shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the EEOC setting forth information as the EEOC deems appropriate to effectuate the purposes of the ADEA. *29 U.S.C. 627*

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Section 504 Notice

A recipient of federal funds that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act or 34 C.F.R. Part 104.

The notification shall state, where appropriate, that the recipient does not discriminate in employment in its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to 34 C.F.R. 104.7(a) (Section 504 coordinator).

Methods of initial and continuing notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placement of notices in recipients' publications; and
4. Distribution of memoranda or other written communications.

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to applicants or employees, it shall include in those materials or publications a statement of its nondiscrimination policy.

34 C.F.R. 104.8

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE GRIEVANCES

DGBA
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**United States
Constitution**

A college district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV*

The board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968) [See DG]

Texas Constitution

The citizens, including college district employees, shall have the right, in a peaceable manner, to assemble together for their common good and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the board negotiate or even respond to complaints. However, the board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

Federal Laws

Section 504

A recipient of federal financial assistance that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act of 1973 regulations). Such procedures need not be established with respect to complaints from applicants for employment. *34 C.F.R. 104.7(b), .11*

Americans with
Disabilities Act

A public entity, including a college district, that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the 28 C.F.R. Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107(b), .140*

Title IX

Each recipient of federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by 34 C.F.R. Part 106 (Title IX of the Education Amendments of 1972 regulations). *34 C.F.R. 106.8(b); North Haven Bd of Educ. v. Bell*, 456 U.S. 512 (1982)

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State Laws

Wages, Hours,
Conditions of Work

Government Code Chapter 617 (prohibition against collective bargaining and strikes, see DGA) does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours, or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi Indep. Sch. Dist.*, 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

Representative

A college district cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

A college district should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Att'y. Gen. Op. H-422 (1974)*; *Corpus Christi Indep. Sch. Dist v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi 1986, no writ)

Open Meetings Act

Government Code Chapter 551 does not require a governmental body, including a college district board of trustees, to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an employee or to hear a complaint or charge against an employee. This section does not apply if the employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*
[See BDA]

Closed Meeting

A board may conduct a closed meeting on an employee complaint to the extent required or provided by law. *Gov't Code 551.082*
[See BDA]

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE GRIEVANCES

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**Whistleblower
Complaints**

Before bringing suit, a public employee, including a college district employee, must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under Government Code Chapter 554 (whistle-blowers). *Gov't Code 554.006* [See DG]

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

DIAA
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Note: This policy addresses employee complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees. For additional legally referenced material relating to this subject matter, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students, see FFDA.

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Section I: Title IX

Definitions

Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*

Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*

*Education
Program or
Activity*

For the purposes of 34 C.F.R. 106.44, 34 C.F.R. 106.30, and 34 C.F.R. 106.45, “education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. *34 C.F.R. 106.44(a)*

*Sexual
Harassment*

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

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
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).

34 C.F.R. 106.30(a)

Formal Complaint

“Formal complaint” means 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.

The phrase “document filed by a complainant” means a document or electronic submission, such as by electronic mail or through an online portal provided for this purpose by the recipient, that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

34 C.F.R. 106.30(a)

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*Actual
Knowledge*

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient.

“Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX coordinator as described in 34 C.F.R. 106.8(a).

34 C.F.R. 106.30(a)

*Supportive
Measures*

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment.

Supportive measures may include 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, and other similar measures.

The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.30(a)

Notice of
Nondiscrimination

Each recipient must notify persons entitled to a notification under 34 C.F.R. 106.8(a) that the recipient does not discriminate on the basis of sex in the education program or activity that it operates,

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	and that it is required by Title IX and 34 C.F.R. Part 106 not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, unless 34 C.F.R. Part 106, Subpart C does not apply, and that inquiries about the application of Title IX and 34 C.F.R. Part 106 to such recipient may be referred to the recipient's Title IX coordinator, to the Assistant Secretary, or both. <i>34 C.F.R. 106.8(b)(1)</i>
Title IX Coordinator	Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under 34 C.F.R. Part 106, which employee must be referred to as the "Title IX coordinator." <i>34 C.F.R. 106.8(a)</i>
Grievance Procedures	A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 C.F.R. Part 106 and a grievance process that complies with 34 C.F.R. 106.45 for formal complaints. These requirements apply only to sex discrimination occurring against a person in the United States. <i>34 C.F.R. 106.8(c-d); North Haven Bd. of Educ. v. Bell, 456 U.S. 512 (1982)</i>
Process for Formal Complaints	A recipient's grievance process must require that any individual designated by a recipient as a Title IX coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. <i>34 C.F.R. 106.45(b)</i>
Conflict of Interest Prohibited	
Training	<p>A recipient must ensure that Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. 106.30, the scope of the recipient's education program or activity, 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.</p> <p>A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and 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, as set forth in 34 C.F.R. 106.45(b)(6).</p>

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A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in 34 C.F.R. 106.45(b)(5)(vii).

Any materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

34 C.F.R. 106.45(b)

Time Frames	A recipient's grievance process must include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as 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. <i>34 C.F.R. 106.45(b)</i>
Presumption of Responsibility Prohibited	A recipient's grievance process must include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. <i>34 C.F.R. 106.45(b)</i>
Information Subject to Privilege	A recipient's grievance process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. <i>34 C.F.R. 106.45(b)</i>
Evaluation of Evidence and Credibility Determinations	A recipient's grievance process must require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness. <i>34 C.F.R. 106.45(b)</i>
Standard of Evidence	A recipient's grievance process must state whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against em-

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	<p>ployees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment. <i>34 C.F.R. 106.45(b)</i></p>
Supportive Measures	<p>A recipient's grievance process must describe the range of supportive measures available to complainants and respondents. <i>34 C.F.R. 106.45(b)</i></p>
Sanctions and Remedies	<p>A recipient's grievance process must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in 34 C.F.R. 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.</p> <p>A recipient's grievance process must describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility.</p> <p><i>34 C.F.R. 106.45(b)</i></p>
Appeals	<p>A recipient's grievance process must include the procedures and permissible bases for the complainant and respondent to appeal. <i>34 C.F.R. 106.45(b)</i></p>
Additional Procedures	<p>Any provisions, rules, or practices other than those required by Section 106.45 that a recipient adopts as part of its grievance process for handling formal complaints of sexual harassment as defined in 34 C.F.R. 106.30, must apply equally to both parties. <i>34 C.F.R. 106.45(b)</i></p>
Reporting	<p>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 electronic mail, using the contact information listed for the Title IX coordinator, or by any other means that results in the Title IX coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX coordinator. <i>34 C.F.R. 106.8(a)</i></p>

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*Formal Complaint
Filing*

A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator under 34 C.F.R. 106.8(a), and by any additional method designated by the recipient. 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 recipient with which the formal complaint is filed.

Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party under 34 C.F.R. Part 106 or under 34 C.F.R. 106.45, and must comply with the requirements of 34 C.F.R. Part 106, including 34 C.F.R. 106.45(b)(1)(iii). *34 C.F.R. 106.30(a)*

Consolidation of
Complaints

A recipient may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. *34 C.F.R. 106.45(b)(4)*

Notice of
Allegations

Upon receipt of a formal complaint, a recipient must provide the following written notice to the parties who are known:

1. Notice of the recipient's grievance process that complies with 34 C.F.R. 106.45, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in 34 C.F.R. 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under Section 106.30, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under 34 C.F.R. 106.45(b)(5)(iv), and may inspect and review evidence under Section 106.45(b)(5)(vi). The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to item 2, above, the recipient must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Response to Sexual
Harassment

A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

A recipient's response must treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

The U.S. Department of Education may not deem a recipient to have satisfied the recipient's duty to not be deliberately indifferent under 34 C.F.R. Part 106 based on the recipient's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment. *34 C.F.R. 106.44(a)*

*Response to
Formal Complaint*

In response to a formal complaint, a recipient must follow a grievance process that complies with 34 C.F.R. 106.45. With or without a formal complaint, a recipient must comply with 34 C.F.R. 106.44(a).

A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

34 C.F.R. 106.44(b), .45(a)

Informal Resolution

A recipient 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 consistent with 34 C.F.R. 106.45. Similarly, a recipient may not require the

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parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, 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, provided that the recipient:

1. Provides to the parties a written notice disclosing: 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, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

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

Investigation

When investigating a formal complaint and throughout the grievance process, a recipient must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the recipient and not on the parties provided that the recipient cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a grievance process under this section.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

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3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the recipient may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing, if a hearing is required under this section or otherwise provided, or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

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Hearings	For postsecondary institutions, the recipient's grievance process must provide for a live hearing. <i>34 C.F.R. 106.45(b)(6)(i)</i>
<i>Conduct of Hearing</i>	<p>Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.</p> <p>At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p>
<i>Cross-Examination</i>	<p>At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient under 34 C.F.R. 106.45(b)(5)(iv) to otherwise restrict the extent to which advisors may participate in the proceedings.</p> <p>If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p>
Relevance	<p>Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.</p> <p>Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p>

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Refusal to Submit to Cross- Examination	If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. 34 C.F.R. 106.45(b)(6)(i)
<i>Recording</i>	Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. 34 C.F.R. 106.45(b)(6)(i)
Determination Regarding Responsibility	<p>The decision-maker(s), who cannot be the same person(s) as the Title IX coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in 34 C.F.R. 106.45(b)(1)(vii). The written determination must include:</p> <ol style="list-style-type: none">1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. 106.30;2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;3. Findings of fact supporting the determination;4. Conclusions regarding the application of the recipient's code of conduct to the facts;5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and6. The recipient's procedures and permissible bases for the complainant and respondent to appeal. <p>The recipient must provide the written determination to the parties simultaneously.</p> <p>The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an</p>

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appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX coordinator is responsible for effective implementation of any remedies.

34 C.F.R. 106.45(b)(7)

Dismissal of
Complaint

The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or 34 C.F.R. Part 106; such a dismissal does not preclude action under another provision of the recipient's code of conduct.

The recipient may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the recipient; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the recipient must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

34 C.F.R. 106.45(b)(3)

Appeals

A recipient must offer both parties an appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A recipient may offer an appeal equally to both parties on additional bases. As to all appeals, the recipient must:

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1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in 34 C.F.R. 106.45(b)(1)(iii);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Confidentiality

The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

Retaliation
Prohibited

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 34 C.F.R. Part 106, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Part 106. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or Part 106, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under 34 C.F.R. 106.8(c).

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The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under 34 C.F.R. Part 106 does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71

Removal or Leave

Nothing in 34 C.F.R. Part 106 precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Nothing in 34 C.F.R. Part 106, Subpart D precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with 34 C.F.R. 106.45. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

34 C.F.R. 106.44(c)–(d)

Publication

*Title IX
Coordinator and
Notice of Non-
discrimination*

The recipient must notify applicants for admission and employment, students, parents, or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX coordinator. *34 C.F.R. 106.8(a)*

Each recipient must prominently display the contact information required to be listed for the Title IX coordinator and the policy described in 34 C.F.R. 106.8(b)(1) on its website, if any, and in each handbook or catalog that it makes available to persons entitled to a notification under 34 C.F.R. 106.8(a).

A recipient must not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on

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the basis of sex except as such treatment is permitted by Title IX or 34 C.F.R. Part 106.

34 C.F.R. 106.8(b)(2)

*Grievance
Procedures and
Process*

A recipient must provide to persons entitled to a notification under 34 C.F.R. 106.8(a) notice of the recipient's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the recipient will respond. *34 C.F.R. 106.8(c)*

*Training
Materials*

A recipient must make the materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, or if the recipient does not maintain a website, the recipient must make these materials available upon request for inspection by members of the public. *34 C.F.R. 106.45(b)(10)*

Recordkeeping

A recipient must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under 34 C.F.R. 106.45 (b)(6)(i), any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

For each response required under 34 C.F.R. 106.44, a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The

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documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Section II: State Law

Definitions

*Dating Violence,
Sexual Assault,
and Stalking*

"Dating violence," "sexual assault," and "stalking" have the same meanings assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f)(6)(A). *Education Code 51.251(2); 19 TAC 3.3(c)*

*Sexual
Harassment*

"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

1. In the employment context, unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment; or
2. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities.

Education Code 51.251(5); 19 TAC 3.3(e)

Employee

"Employee of a postsecondary educational institution" does not include a student enrolled at the institution. *Education Code 51.251(3)*

*Course and
Scope of
Employment*

"Course and scope of employment" means an employee performing duties in the furtherance of the institution's interests. *19 TAC 3.3(b)*

**Sexual Assault
Policy**

Each postsecondary educational institution, including each college district, shall adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each enrolled student and each employee of the institution and have the policy approved by the institution's governing body. The policy must include:

1. Definitions of prohibited behavior.
2. Sanctions for violations.
3. Protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking that complies with the electronic reporting requirement in 19 Administrative Code 3.7.

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4. Interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking pending the institution's disciplinary process, including protection from retaliation, and any other accommodations or supportive measures available to those victims at the institution. This section is not intended to limit an institution's ability to implement accommodations to others as needed.
5. A statement regarding:
 - a. The importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
 - b. The right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
 - c. The right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking adopted under this section, each postsecondary educational institution shall:

1. To the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, or stalking and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and
2. Notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, and stalking to drop a course in which both parties are enrolled without any academic penalty.

Education Code 51.282(a); 19 TAC 3.4(a), (d)(2)(C)

Review

Each postsecondary educational institution shall review its sexual harassment, sexual assault, dating violence, and stalking policy at least each biennium and revise the policy as necessary and obtain approval from the institution's governing board. *Education Code 51.282(f); 19 TAC 3.4(e)*

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<i>Distribution</i>	<p>Each postsecondary educational institution shall make its policy on sexual harassment, sexual assault, dating violence, and stalking available to students, faculty, and staff members by:</p> <ol style="list-style-type: none">1. Including the policy in the student handbook and personnel handbook or the institution's equivalent(s); and2. Creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution's homepage. <p><i>Education Code 51.282(b); 19 TAC 3.4(b)</i></p>
Responsible Employee	<p>Each postsecondary educational institution shall designate one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq and inform each student enrolled at the institution of the designated responsible employees. <i>Education Code 51.290(a); 19 TAC 3.14(a)</i></p>
Reporting <i>Employee Reporting Required</i>	<p>An employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator.</p> <p>The employee is required to report an incident regardless of when or where the incident occurred.</p> <p>Institutions may establish additional reporting avenues to comply with this section provided that the reports are promptly routed to the Title IX coordinator or deputy Title IX coordinator.</p> <p><i>Education Code 51.252(a); 19 TAC 3.5(a)</i></p>
Exception from Reporting	<p>A person is not required to make a report under this section concerning:</p> <ol style="list-style-type: none">1. An incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking;2. An incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution; or

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3. A sexual harassment, sexual assault, dating violence, or stalking incident in which the person has either learned of the incident during the course of his or her institution's review or process or has confirmed with the person or office overseeing the review or process, that the incident has been previously reported.

Education Code 51.252(d); 19 TAC 3.5(d)

Contents of
Report

The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. *Education Code 51.252(b); 19 TAC 3.5(b)*

Limitations on
Reporting

*Designated
Confidential
Employees*

Each postsecondary educational institution shall designate one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated confidential employees.

A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under 19 Administrative Code 3.5(c), state law, or federal law.

Absent consent from the reporting student, an employee designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking shall only state the type of incident reported and may not include any information that would violate a student's expectation of privacy.

Education Code 51.252(c), .290(a), (c); 19 TAC 3.5(c), .14

*Confidential
Employees
Under Other
Law*

Absent consent from the reporting individual, an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking under circumstances that render the employee's communications confidential or privileged under other law shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. *Education Code 51.252(c); 19 TAC 3.5(c)*

*Medical
Providers*

Absent consent from the victim(s), an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking in the course and scope of employment as a health-care provider, mental health-care provider, or other medical provider shall only state the type of incident reported

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and may not include any information that would violate an expectation of privacy. *Education Code 51.291(d); 19 TAC 3.5(c)*

*Campus
Peace
Officers*

A campus peace officer employed by a postsecondary educational institution who receives information regarding an incident described by Education Code 51.252(a) from an alleged victim who chooses to complete a pseudonym form described by Code of Criminal Procedure Article 58.102, 58.152, 58.202, or 58.252 shall, in making a report, state only the type of incident reported and may not include the victim's name, phone number, address, or other information that may directly or indirectly reveal the victim's identity. *Education Code 51.252(c-1)*

*Multiple
Confidential
Employees*

When multiple confidential employees receive information about the same incident (e.g., student health center or counseling center), only a single report stating the type of incident is required. *19 TAC 3.5(c)*

*Reporting
Under Other
Law*

These limitations on disclosure do not affect the employee's duty to report an incident under any other law, including but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f), Family Code 261.101, or Health and Safety Code 611.004. *Education Code 51.290(c); 19 TAC 3.5(c)*

*Failure to Report
or False Report*

A person commits an offense if the person is required to make a report under Education Code 51.252 and knowingly fails to make the report or with the intent to harm or deceive, knowingly makes a report under Section 51.252 that is false.

A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense.

Education Code 51.255(a), (c); 19 TAC 3.8

*Electronic
Reporting*

Each postsecondary educational institution, including each college district, shall provide an option for electronic reporting to the institution by an enrolled student or an employee of the institution of an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must:

1. Allow for anonymous reporting; and
2. Be easily accessible through a clearly identifiable link on the institution's website home page.

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A protocol for reporting sexual assault adopted under Education Code 51.282 must comply with this section.

Education Code 51.283(a)–(c); 19 TAC 3.7

*Reporting on
Reports*

Title IX
Coordinator

Not less than once every three months, the Title IX coordinator of a postsecondary educational institution shall submit to the institution's chief executive officer a written report on the reports received for the institution's reporting period under 19 Administrative Code 3.5, including information regarding:

1. The investigation of those reports;
2. The disposition, if any, of any disciplinary processes arising from those reports; and
3. The reports for which the institution determined not to initiate a disciplinary process, if any.

The Title IX coordinator or deputy Title IX coordinator of a postsecondary educational institution shall immediately report to the institution's chief executive officer an incident reported to the coordinator under Section 3.5 if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

Education Code 51.253(a)–(b); 19 TAC 3.6(a)–(b)

Chief Executive
Officer

At least once annually, during each fall or spring semester, the chief executive officer of a postsecondary educational institution shall submit to the institution's governing body and post on the institution's internet website a report concerning the reports received under 19 Administrative Code 3.5. The chief executive officer report may not identify any person and must include:

1. The number of reports received under Section 3.5;
2. The number of investigations conducted as a result of those reports;
3. The disposition, if any, of any disciplinary processes arising from those reports;
4. The number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
5. Any disciplinary actions taken under 19 Administrative Code 3.8.

If for any semester a postsecondary educational institution has fewer than 1,500 enrolled students, the chief executive officer of

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the institution shall submit and post a report required for that semester only if more than five reports were received under Section 3.5 during that semester.

Education Code 51.253(c)–(d); 19 TAC 3.6(c)–(d)

Investigations

*Request Not to
Investigate*

If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Education Code 51.291 and 19 Administrative Code 3.17. In determining whether to investigate the alleged incident, the institution shall consider:

1. The seriousness of the alleged incident;
2. Whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;
3. Whether the alleged incident poses a risk of harm to others; and
4. Any other factors the institution determines relevant.

If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, the institution shall take any reasonable steps the institution determines necessary and consistent with the institution's policy and applicable law to protect the health and safety of the institution's community in relation to the alleged incident.

Education Code 51.285(a)–(b); 19 TAC 3.9(a)–(b)

*Notice of
Decision*

A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution's decision whether to investigate the alleged incident. *Education Code 51.285(c); 19 TAC 3.9(c)*

Confidentiality

Unless waived in writing by the person, the identity of a person described below is confidential and not subject to disclosure under the Public Information Act (PIA) and may be disclosed only to:

1. Persons employed by or under contract with the postsecondary educational institution to which the report is made who are necessary to conduct an investigation or the report or any related hearings;

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2. A law enforcement officer as necessary to conduct a criminal investigation of the report;
3. A health-care provider in an emergency, as determined necessary by the institution;
4. The person or persons alleged to have perpetrated the incident, to the extent required by other law; and
5. Potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law.

The protections provided by this section apply to:

1. An alleged victim;
2. A person who reports an incident to an institution;
3. A person who sought guidance from the institution concerning an incident;
4. A person who participated in the institution's investigation of an incident; or
5. A person who is alleged in a report made to an institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking, if after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

Education Code 51.256, .291(a), (c); 19 TAC 3.17

Retaliation
Prohibited
Employees

A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by 19 Administrative Code 3.5 or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee. *Education Code 51.257(a); 19 TAC 3.18*

Exception

The prohibition does not apply to an employee who:

1. Reports an incident of sexual harassment, sexual assault, dating violence, and stalking perpetrated by the employee; or
2. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident described by Education Code 51.252(a).

Education Code 51.257(b); 19 TAC 3.18(b)

Any Person

A person acting in good faith who reports or assists in the investigation of a report of an incident described by 19 Administrative

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Code 3.5 or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's policy or code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. This provision does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Section 3.5. *Education Code 51.254; 19 TAC 3.5(e)–(f)*

Awareness

*Orientation on
Policy*

Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term of enrollment at the institution. The institution shall establish the format and content of the orientation. The orientation may be provided online and must include the statements described by 19 Administrative Code 3.4(a)(5). *Education Code 51.282(c); 19 TAC 3.4(c)*

*Prevention and
Outreach
Program*

Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking for enrolled students and employees of the institution. The program must:

1. Address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a public awareness campaign; a victim empowerment program; primary prevention; bystander intervention; and risk reduction; and
2. Provide students information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking, including the name, office location, and contact information of the institution's Title IX coordinator, by:
 - a. Emailing the information to each student at the beginning of each semester or other academic term; and
 - b. Including the information in the institution's orientation, which may be provided online.

Education Code 51.282(d); 19 TAC 3.4(d)

Equal Access

In implementing the requirements under 19 Administrative Code Chapter 3, Subchapter A, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for

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	<p>students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution's duties under this section. <i>Education Code 51.293; 19 TAC 3.16</i></p>
Memoranda of Understanding	<p>To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:</p> <ol style="list-style-type: none">1. Local law enforcement agencies;2. Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and3. Hospitals or other medical resource providers. <p><i>Education Code 51.289; 19 TAC 3.13</i></p>
Compliance	<p>The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section.</p> <p>If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Subchapter E-2 and Education Code Chapter 51, Subchapter E-3, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed \$2 million. In determining the amount of the penalty, the Coordinating Board shall consider the nature of the violation and the number of students enrolled at the institution.</p> <p>If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution, the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reasons for assessing the penalty. A postsecondary educational institution assessed an administrative penalty may appeal the penalty in the manner provided by Government Code Chapter 2001. A postsecondary educational institution may not pay the administrative penalty using state or federal money.</p> <p><i>Education Code 51.258(a)–(e), .292(a)–(d); 19 TAC 3.19(a)–(e)</i></p>

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Note: This policy addresses complaints of sex and gender discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting employees. For additional legally referenced material relating to discrimination, harassment, and retaliation, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting students, see FFDA.

**Statement of
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any employee on the basis of sex. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

Definitions

Employee

Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee on the basis of sex that adversely affects the employee’s employment.

In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee’s employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee’s work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Sexual Violence

Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol or due to an intellectual or other disability.

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<i>Dating Violence</i>	<p>“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.</p>
<i>Domestic Violence</i>	<p>“Domestic violence” means violence committed by:</p> <ul style="list-style-type: none">• A current or former spouse or intimate partner of the victim;• A person with whom the victim shares a child in common;• A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;• Any other member of the victim’s family as defined by state law;• Any other current or former member of the victim’s household as defined by state law;• A person in a dating relationship with the victim as defined by state law; or• Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs.
<i>Stalking</i>	<p>“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.</p> <p>For the purposes of this definition:</p> <ol style="list-style-type: none">1. “Course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.2. “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
<i>Examples</i>	<p>Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; sexual assault as defined by law; offensive or derogatory language</p>

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directed at another person's gender identity; and other sexually motivated conduct, communication, or contact.

Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the employee, the employee's family members, or members of the employee's household; destroying the employee's property; threatening to commit suicide or homicide if the employee ends the relationship; tracking the employee; attempting to isolate the employee from friends and family; threatening an employee's spouse or partner; or encouraging others to engage in these behaviors.

Prohibited Conduct	In this policy, the term "prohibited conduct" includes discrimination, sexual harassment, dating violence, domestic violence, stalking, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct.
Complainant	In this policy, the term "complainant" refers to an employee who is alleged to have experienced prohibited conduct.
Respondent	In this policy, the term "respondent" refers to a person who is alleged to have committed prohibited conduct.
Confidential Employee	A "confidential employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source.

**Reporting
Procedures**

Reporting by
Alleged Victim

A victim of prohibited conduct has the right to report the incident to the College District and to receive a prompt and equitable resolution of the report.

An employee who believes that the employee has experienced prohibited conduct may report the alleged acts to the employee's immediate supervisor, to the Title IX coordinator, or to the College President or designee.

Reports against the Title IX coordinator may be directed to the College President. A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation. An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct.

Alternatively, the employee may report electronically through the College District's website.

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A victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

It is important that a victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

Reporting by Other
Employees

Any employee who believes that another employee has experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately report the alleged acts to the Title IX coordinator. Additionally, the employee may report to the College President or designee.

A report against the College President must also be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

Exceptions

Disclosure at
Event

A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by an employee organization affiliated with the institution is not required to report the prohibited conduct unless the person has authority to institute corrective measures on behalf of the College District.

Employee
Subject to
Confidentiality
Rules

Absent the employee's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the employee's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

Peace Officer

A College District peace officer who received information regarding the incident from an employee who chooses to complete a pseudonym form as described by law shall only be required to disclose the type of incident reported and may not disclose the employee's name, phone number, address, or other information that may directly or indirectly reveal the employee's identity.

Prior Report

A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to

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comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:

Title IX Coordinator: Veronica G. Cardenas, Senior Director of Human Resources

Address: West End Washington Street, Laredo, TX 78040

Telephone: (956) 721-5138

Email: [Title IX Coordinator email](#)¹

Webpage: [Title IX/Sexual Misconduct webpage](#)²

Responsible Employees

All employees, with the exception of confidential employees, are designated as responsible employees for purposes of compliance with Title IX.

Timely Reporting

A failure to immediately report prohibited conduct may impair the College District's ability to investigate and address the conduct.

Consolidate Reports

When the allegations underlying two or more complaints arise out of the same facts or circumstances, the College District may consolidate the complaints.

Advisor

Each party to a complaint may be assisted by an advisor of the party's choice who may participate in the proceedings in a manner consistent with College District procedures.

Conflict of Interest Prohibited

No person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall have a conflict of interest or bias.

Training

A person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College District procedures.

Days

"Days" shall mean College District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."

Extension of Timelines

Timelines established by this policy and associated procedures may be subject to a limited extension if good cause, as defined in this policy and College District regulations, exists. The College District shall promptly provide written notice to the parties of an extension and the reason for the extension. A limited delay determined to be necessary so as not to impede a criminal or regulatory investigation shall constitute good cause for an extension of timelines established by this policy and associated procedures.

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**Investigation of the
Report**

The College District may request, but shall not insist upon, a written report. If a report is made orally, the Title IX coordinator or designee shall reduce the report to written form.

Initial Assessment

Upon receipt or notice of a report, the Title IX coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX coordinator shall promptly offer supportive measures to the complainant. The Title IX coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College District moves forward with the investigation, the Title IX coordinator shall immediately provide notice to the known parties to the complaint.

If the Title IX coordinator determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the Title IX coordinator shall refer the complaint for consideration under the appropriate policy.

*Request Not to
Investigate*

The complainant may request that the College District not investigate the allegations. If the complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.

The College District shall promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District shall take reasonable steps to protect the health and safety of the College District community.

Formal Complaint

To be considered a formal complaint under Title IX, the complainant or the Title IX coordinator must sign the written report.

Notice to Parties

The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.

If the allegations are subsequently amended, the College District shall provide an updated notice reflecting the new allegations.

Informal Resolution

The College District may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution

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of a formal complaint, the Title IX coordinator shall determine within three days if informal resolution is appropriate for the complaint. If the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution within ten days. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process.

Formal Resolution	If the complaint is not subject to the informal resolution process, the Title IX coordinator shall authorize or undertake an investigation.
Supportive Measures	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX coordinator shall promptly provide supportive measures intended to prevent prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive measures include work accommodations, such as leaves of absence or administrative leave; mutual restrictions on contact between the parties; counseling and health services; and increased security and monitoring of certain areas of the campus.
College District Investigation	<p>The investigation may be conducted by the Title IX coordinator or a designee or by a third party designated by the College District, such as an attorney. When appropriate, the supervisor shall be involved in or informed of the investigation.</p> <p>The investigation may consist of personal interviews with the complainant, the respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p> <p>The parties shall be provided an equal opportunity to present witnesses and evidence and to inspect and review any directly related evidence obtained by the College District so that the parties may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate.</p> <p>At least ten days prior to the completion of the investigation report, the College District must send each party and the party's advisor evidence subject to inspection and review. The parties may submit a written response for consideration by the investigator.</p>
Concluding the Investigation	The investigation shall be completed within a reasonable time, not to exceed 30 days from the date of the report.

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	<p>The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX coordinator within five days following the completion of the investigation.</p>
Notification of the Report	<p>The Title IX coordinator shall provide the investigation report, within the extent permitted by law, to the complainant and the respondent promptly following receipt. The parties shall be given ten days to respond to the report.</p>
College District Action	<p>The Title IX coordinator shall submit the investigation report to the senior director of human resources promptly after receipt of the parties' response but no later than the expiration of the parties' deadline to respond.</p> <p>The senior director of human resources or designee shall summon the parties for a hearing to be held within a reasonable time, not to exceed ten days. The hearing shall be conducted in accordance with law and College District procedures.</p> <p>After the hearing, the senior director of human resources or designee shall determine whether each individual allegation of prohibited conduct occurred using a preponderance of evidence standard and determine the appropriate disciplinary or corrective action. In making the determination, the senior director of human resources or designee shall evaluate all relevant evidence objectively and shall not make credibility assessments based on a person's status as the complainant, the respondent, or a witness. The senior director of human resources or designee shall create a written determination regarding responsibility in accordance with law and College District procedures within five days following the hearing and submit the determination to the parties simultaneously.</p>
Disciplinary or Corrective Action	<p>If the senior director of human resources or designee determines that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.</p> <p>The College District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.</p> <p>Examples of disciplinary or corrective action may include:</p> <ul style="list-style-type: none">• Implementing the disciplinary measures described in DH and the DM series for employees or FM for students;• Providing a training program for those involved in the complaint;

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- Providing a comprehensive education program for the College District community;
- Providing counseling for the victim and the student who engaged in prohibited conduct;
- Permitting the victim or student engaged in the prohibited conduct to drop a course in which they both are enrolled without penalty;
- Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;
- Involving employees in efforts to identify problems and improve the College District climate;
- Increasing staff monitoring of areas where prohibited conduct has occurred;
- Reaffirming the College District's policy against discrimination and harassment; and
- Taking other actions described in College District regulations.

Exception

The College District shall minimize attempts to require a complainant to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College District shall be involved in an appropriate manner.

Improper Conduct

If the senior director of human resources or designee determines that improper conduct occurred that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.

Dismissal of Complaint

Mandatory Dismissal

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law.

Permissive Dismissal

Any complaint may be dismissed at any time on request of a complainant. The Title IX coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

A complaint may also be dismissed if specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the complaint or allegations.

Notice of Dismissal

Upon dismissal of a complaint, the Title IX coordinator or the senior director of human resources or designee shall provide the parties written notice of the dismissal.

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Confidentiality	To the greatest extent possible, consistent with law, the College District shall respect the privacy of the complainant or the respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to carry out the purposes of this policy and associated regulations and to comply with applicable law.
Retaliation	<p>The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses to participate in an investigation, proceeding, or hearing under this policy. This prohibition does not apply to discipline of a person who perpetrated or assists in the perpetration of the prohibited conduct.</p> <p>A person who is alleged to have experienced retaliation may pursue a claim under this policy or policy FFDA, as appropriate.</p>
Examples	Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.
Failure to Report and False Claims	An employee who fails to make a required report or an employee or student who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College District investigation regarding prohibited conduct shall be subject to appropriate disciplinary action.
Appeal	If the senior director of human resources or designee determines that a contract employee committed prohibited conduct that warrants suspension without pay or termination mid-contract, the senior director of human resources or designee shall inform the employee in writing of the determination, and a Board hearing shall be scheduled in accordance with DMAA.
Discipline or Corrective Action	
<i>Employees</i>	
Suspension Without Pay or Termination of Contract Employees	
Other Action	If the senior director of human resources or designee determines that the employee committed prohibited conduct that warrants other discipline or corrective action, the senior director of human resources or designee shall inform the employee that the employee may appeal the determination within ten days in accordance with DGBA beginning at Level Three.
<i>Students</i>	
Suspension	If the senior director of human resources or designee determines that a student committed prohibited conduct that warrants a suspension, the official shall forward the determination and all evidence collected during the investigation and hearing to the College

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	President. A conference shall be scheduled within ten days of the notice of determination in accordance with FMA, beginning at Appeal to College District Administration.
Expulsion	If the senior director of human resources or designee determines that the student committed prohibited conduct that warrants expulsion, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President to schedule an expulsion hearing before the Board in accordance with FMA.
Other Action	If the senior director of human resources or designee determines that the student committed prohibited conduct that warrants other discipline or corrective action, the senior director of human resources or designee shall inform the student that the student may appeal the determination within ten days in accordance with FMA, beginning at Appeal to College District Administration.
Other Appeals	All other appeals related to this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]
Complaints Filed with State or Federal Agencies	A party shall be informed of any right to file a complaint with appropriate state or federal agencies.
Records Retention	Retention of records shall be in accordance with the College District's records retention procedures. [See CIA]
Access to Policy, Procedures, and Related Materials	Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to an employee who makes a report.

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¹ Title IX Coordinator email: <mailto:veronica.cardenas@laredo.edu>

² Title IX/Sexual Misconduct webpage:
<https://www.laredo.edu/cms/TitleIX/>