



EQUAL RIGHTS
ADVOCATES

ENDING HARASSMENT NOW:

KEEPING OUR KIDS
SAFE AT SCHOOL





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EXECUTIVE SUMMARY

The alarming rate of sexual assault and harassment on college campuses has recently drawn a great deal of attention in the media,¹ and prompted calls to action from students, legislators, and advocates around the country, including here in California.² The disturbing trend raises important questions about what school administrators are doing, and what they should be doing, to prevent and address sexual harassment at the elementary and secondary school level, *before* students get to college. Title IX of the Education Amendments of 1972 (“Title IX”)³ has long recognized sexual harassment of students – whether by their peers or by school employees – as a form of prohibited sex discrimination.⁴ Despite this legal prohibition, which applies at all schools and educational programs that receive federal funding, harassment based on sex is still a common and harmful phenomenon in K-12 schools,⁵ and it has a particularly negative impact on girls.⁶

That is why, for over forty years, Equal Rights Advocates (“ERA”) has worked to protect and expand equal education opportunity by representing hundreds of women and girls in efforts to enforce Title IX. In addition, through our toll-free Advice and Counseling Hotline, ERA provides free information to students and parents across the country about their legal rights relating to sex discrimination and harassment at school. This experience has taught us that, in spite of longstanding legal requirements and standards on sexual harassment called for by Title IX, students, parents, and even school staff – especially at the K-12 level – often have no idea where to turn for help with these issues within their schools and districts.

So we were troubled, though not surprised, to learn about the disturbing level of ignorance of Title IX and of the issue of sexual harassment among Bay Area school principals, revealed by an NBC news report in late 2012.⁷ Reporters acting as concerned parents sent emails to dozens of principals asking who the Title IX coordinator was for their school, and how complaints of student sexual harassment could be made. Principals’ responses to these e-mails included, *“We don’t have a Title IX Coordinator,”* and, *“I think that would be me...!?”* indicating a striking lack of awareness about their duties and their schools’ obligations under the law. And while sexual assault on college campuses has drawn media attention, the widespread misconception remains that Title IX is only about equity in athletics.⁸

Sensing an opportunity to dig deeper into a widespread problem, ERA got to work immediately in the weeks following the NBC report, sending Public Records Act requests⁹ to every K-12 school district in seven Bay Area counties,¹⁰ asking them to produce documents and information relating to their compliance with Title IX. In the months that followed, school districts began to send documents and links to webpages in response to our requests and follow-up inquiries.¹¹ As records continued to be produced throughout the following year, ERA

“When I was 19, I was attacked by my fellow college team member. I was scared, unsupported by my school, and I didn’t know my rights. If I had learned earlier, in high school or younger, that victims have specific rights under the law, I think I would have been less vulnerable to the terrible aftermath of my assault. I think all students would be less vulnerable if they learned their rights.”

-- JESSIE R.

OTHER RESPONSES FROM PRINCIPALS WERE:

- I’m not sure who you would need to talk to.
- I have no idea who it is. Try labor relations, they should know.
- I have no Idea what Title IX is, sorry.
- I need to know who I am talking to before I send that information.
- We don’t have a coordinator.

developed an evaluation tool¹² and began to assess school districts' responses, from their Title IX Coordinator designations to their non-discrimination policies, training efforts, and complaint procedures relating to student sexual harassment. What we found and the lessons learned from conducting this assessment form the basis for this report.

Unfortunately, more than 40 years after Title IX's passage, ERA's investigation revealed widespread ignorance of and non-compliance with some of the law's most basic requirements. Our investigation confirmed that many Bay Area schools are not doing enough – or, in some cases, anything – to educate students, staff, and parents about what sexual harassment is, and where to turn for help when they are confronted with it. Many policies were found to be incomplete or inaccessible. For example,

*I never expected that so many people would be open to learning more about sexual harassment and Title IX, but once we got together as a group, it became obvious that all the students had so much to say about how important it is to them to feel safe on campus.
~ Liana, Berkeley High School*

only 28 percent of the district policies reviewed contained specific protections for student victims of sexual violence,¹³ which is especially discouraging given the frequency and seriousness of sexual assault at the college level.

As a result of the social media revolution, gender based harassment and bullying is happening in many new mediums – through text messages, Facebook, Instagram, Twitter, YikYak, etc. ERA found that schools that are not keeping up with how their students communicate are not adequately addressing harassment and bullying. One Bay Area

high school student confided in ERA that her school was ill-prepared to prevent and address serious and pervasive sexual harassment on social media that was affecting many students at school. This prompted her to organize other young women students to demand an updated approach by her school to inform and protect students.

The results of ERA's investigation indicate that this experience is all-too common: administrators, staff, and students at the K-12 level are not adequately informed about or trained on the protections, rights, and duties under Title IX. This lack of information and awareness leaves far too many girls and young women vulnerable to sex-based harassment, and far too many students and parents unsure what to do, where to go, or who to turn to for help with this problem when they most need it. This situation -- the status quo -- is unacceptable.

We should not wait for the next big news story about a student being sexually assaulted, abused, or bullied to start making things better. If we want to ensure that girls and boys enjoy full access and equal opportunities to participate in every aspect of their education, and we want young women and men to be upstanders, not bystanders, in the face of sexual harassment or assault, then we have to make sure that schools are educating students about their rights and responsibilities from a young age. We should give elementary and secondary schools the tools and incentives they need to take proactive steps to prevent and end sex-based harassment. We should educate students, parents, staff, and other members of school communities about the civil right to education free from sexual harassment. We should enact policies at the federal, state, and local level that facilitate implementation and enable enforcement of that right.

The findings in this report, as well as the suggested action items, are designed to prompt action to improve the law, school policies, and training. Our kids need our best efforts to keep them safe and they need them now.

SEXUAL HARASSMENT IN K-12 SCHOOLS: HOW BAD IS IT?

THE PROBLEM IS A SERIOUS ONE

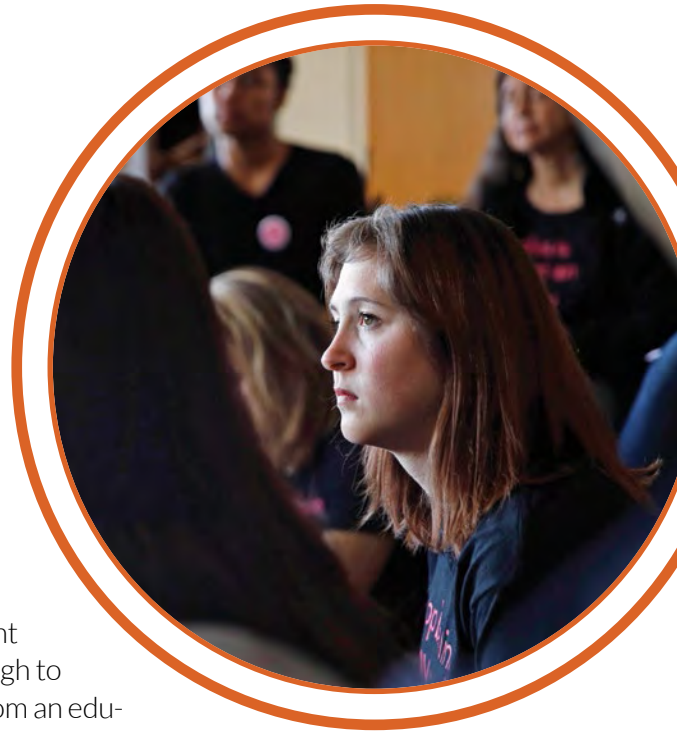
Sexual harassment and gender-based bullying are unfortunately part of everyday life for many middle and high school students. Studies have found that over half of girls and at least 40% of boys in grades 7 through 12 have faced some form of unwanted conduct based on or because of sex.¹⁴ The vast majority of those students (87%) reported that the harassment had a negative effect on them.¹⁵

Most sexual harassment at school falls into the category of hostile environment harassment. To be legally actionable, hostile environment harassment must be sufficiently severe, persistent, or pervasive enough to limit or interfere with a student's ability to participate in or benefit from an educational program, activity, or service. A school violates a student's Title IX rights when it knows or should know about the hostile environment, and fails to take prompt and effective steps reasonably calculated to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.¹⁶

But sexual harassment and gender-based bullying at the middle and high school level can be a problem long before they become legally actionable. Students have reported a wide range of emotional side effects from being the victims of sexual harassment and gender-based bullying, including a loss of interest in attending school, feeling sick to their stomachs, difficulties studying and focusing, and even in sleeping.¹⁷ And while harassment takes a toll on all student victims' education, girls are more likely than boys to report experiencing these negative impacts.¹⁸

Unfortunately, many schools are not keeping up with the problem. Sexual harassment today doesn't just happen in classrooms or school hallways; it happens on Facebook, Twitter, Instagram, Snapchat, and other social media platforms, and then infects the learning environment. Schools' non-discrimination and harassment policies have not evolved with these changes in technology, often failing to recognize or expressly prohibit harassment carried out in these new forums. Schools cannot effectively prevent or remedy harassment and bullying if they don't acknowledge its existence.

Despite its prevalence, sexual harassment at the K-12 level comes as a surprise to many because it is so rarely reported. One study found that fewer than 10 percent of students who had experienced being harassed reported the harassment to a teacher, counselor, or other adult at school.¹⁹ Many students do not know that Title IX applies to them, making bullying and sexual harassment seem like an inevitable part of the school day.²⁰



"The culture at BHS is one where girls' bodies are out on display. Everyone I know has experienced something, an incident."
~ Sami, Berkeley High School

"Sexual harassment happens on a daily basis at school. But until we all learn about sexual harassment, we don't even know what to call it. It's just life."
~ Rachel, Berkeley High School

And while witnessing sexual harassment is unlikely to be as devastating to students' well-being as being a target of such conduct, it can still negatively affect students' sense of safety and contribute to a feeling that this behavior is "normal," making it even harder for young victims of harassment to speak out.

If students, parents, and schools lack the tools to recognize, prevent and combat sexual harassment, then it will continue to impact students' ability to participate in their education and will inhibit far too many girls' ability to learn and succeed.

Schools are not keeping up...
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WHAT DOES THE LAW REQUIRE SCHOOLS TO DO ABOUT HARASSMENT?

TITLE IX DEMANDS SCHOOLS BE PROACTIVE TO ACHIEVE EQUITY AND TO PROTECT STUDENTS

TITLE IX PROVIDES THAT:

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 educational program or activity receiving federal financial assistance.²¹

Some schools at the K-12 level do not realize that Title IX applies to them, or that it has to do with more than just ensuring equal access to athletic opportunities for girls and boys. Regardless of grade level, Title IX requires that all schools and educational programs prohibit and effectively respond to sexual harassment of students as a condition of receiving federal financial assistance. Schools must also take affirmative steps to prevent and promptly address any sex discrimination, sexual harassment or sexual violence that affects their students.²²

SPECIFICALLY, TITLE IX REQUIRES THAT SCHOOLS:

- Designate a Title IX Coordinator;²³
- Have a written non-discrimination policy that is distributed to students, faculty, and parents and includes information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies;²⁴
- Establish a grievance procedure for handling complaints of sex discrimination, sexual harassment or sexual violence;²⁵ and
- Ensure that “responsible employees” with the authority to address sexual harassment are trained properly and know how to respond appropriately to reports of sex discrimination, sexual harassment and sexual violence.²⁶

WHAT MUST SCHOOLS DO TO PROTECT STUDENTS?

A school must do something about harassment that it knows about or reasonably should know about. If harassment is reported, or if it is widespread or well-known to students and staff, the school has to respond. A school is required investigate the harassment in a prompt, thorough, and fair way. If a school determines that sexual harassment has occurred, it must take effective steps to end the harassment and prevent it from happening again.

Some schools at the K-12 level do not realize that Title IX applies to them.



HOW ARE BAY AREA SCHOOLS DOING?

Through Public Records Act requests,²⁷ ERA asked 116 K-12 school districts for documents that evidenced or described the schools' efforts to comply with Title IX, including:

- ✔ the identity and contact information of their Title IX Coordinators;
- ✔ any written non-discrimination policies and/or procedures relating to compliance with Title IX (as well as any documents showing how such policies were disseminated or made known to students, parents, teachers, principals and other school staff);
- ✔ any documents reflecting Title IX-related training provided to students, parents, teachers, principals or other school staff; and
- ✔ any policies or procedures for making, investigating, and/or resolving Title IX complaints as well as the districts' responses to any Title IX complaints during the prior three years.
- ✔ ERA's goal in collecting this information was to identify gaps in Title IX compliance and encourage San Francisco Bay Area school district officials to take immediate steps to identify areas where their policies and procedures, as well as their notice and training practices, could be improved.

Based on the documents produced, ERA found that many of the districts and schools did just the bare minimum to comply with the law or, in fact, were only in compliance with some of the Title IX requirements.

WHAT IS A TITLE IX COORDINATOR?

Title IX requires a district designate at least one employee as a "Title IX Coordinator," to make sure that the school is following the law. Schools must notify students and employees of the name or title, office address, telephone number, and email address of each designated Title IX Coordinator.²⁸ It is the Coordinator's responsibility to make sure that his or her school has a clear policy and procedure for handling students' sexual harassment complaints and to ensure that any claims of sexual harassment are promptly and adequately investigated.

Unfortunately, documents produced in response to ERA's record requests showed that many schools are not designating a specific employee as the Title IX Coordinator, and are not identifying the Title IX Coordinators in any document provided to students or parents.²⁹ In addition, the documents provided related to training were incomplete or nonexistent, which demonstrates the lack of training (or quality of training documents) received by Title IX Coordinators.

ONLY 8% of the Coordinators reviewed the school policies and practices to **ENSURE THAT THEY WERE NONDISCRIMINATORY**

RESOLVING Title IX complaints was the **PRIMARY JOB FUNCTION** **FOR ONLY 4%** of the Title IX Coordinators identified

ONLY 6% of the Coordinators reviewed their school Title IX grievance procedures or other school policies and practices to **ENSURE THEIR EFFECTIVENESS**

MORE THAN 30% of Title IX Coordinators identified were not responsible for **RECEIVING & INVESTIGATING** Title IX complaints

ONLY 7% of the Coordinators **assessed their school's compliance** with Title IX & **ONLY 16% ASSESSED** did so for their districts

ERA's investigation also revealed that for most employees who have been designated as "Title IX Coordinators," making sure that their schools are complying with the law is not their primary function or principle job duty. In other words, most designated Title IX Coordinators wear other hats – as principals, as human resources managers, or in other roles – which could make it difficult or impossible for them to spend time carrying out and educating members of the school community about Title IX and implementing school policies against sexual harassment.

WHAT'S THE POLICY?

Title IX requires that all schools have a non-discrimination policy and that they distribute that policy to all students.³⁰ Many of the policies ERA reviewed were not written clearly or succinctly, making them inaccessible or difficult to comprehend for both children and parents. While Title IX itself does not spell out which forms of sex discrimination must be addressed in school nondiscrimination policies, implementing regulations and guidance from the Office for Civil Rights make clear that such policies must prohibit all kinds of discrimination – including harassment, bullying, and stalking based on sex. Nonetheless, ERA reviewed policies that failed to even mention sexual harassment specifically, instead only prohibiting "harassment" and then failing to include a definition of that term. In addition, some nondiscrimination policies identified certain protected classes or traits (i.e., sex, gender, sexual orientation, and parental or marital status), but left out others (such as gender identity or gender expression). With the many different types of challenges students face these days, schools need to include reference to the many types of discrimination, including providing definitions and additional resources on how to handle issues as they arise.

EXAMPLE #1 OF PROBLEMATIC SEXUAL HARASSMENT POLICY:

"Upon receipt of a complaint, the School District will immediately investigate and make every attempt to resolve the complaint quickly and at a local level." This sentence lacked emphasis in the middle of a wordy paragraph. The policy also lacked detail about how the school will investigate and the timeline for investigation.

EXAMPLE # 2 OF PROBLEMATIC POLICY POLICY

“The Board of Trustees believes that all students have the right to be educated in a positive learning environment free from disruptions. On School grounds and at school activities, students shall be expected to exhibit appropriate conduct that does not infringe upon the rights of others or interfere with the school program.” The policy does not define sexual harassment.

HOW DO SCHOOLS RESOLVE ISSUES?

Title IX requires that schools adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints of sex discrimination, including sexual harassment and assault.³¹ Many of the grievance procedures produced were vague and failed to include specific instructions on how to file a complaint or details about the investigation process. *Only 7% of the schools that produced sexual harassment policies also produced grievance procedures that were clear and easy to understand.* And while some districts did produce documents explaining their grievance procedures, many times they were filled with confusing and dense legal language and did not adequately outline a timeline for the complaint procedure.

In addition, ERA reviewed the district and school websites to determine whether their sexual harassment policies were easily accessible online. Unfortunately, on the vast majority of the 116 district websites checked, they were not: only 15% of the time was ERA able to find the sexual harassment policy (for students) and/or grievance procedure for making a Title IX complaint on the websites within 5 minutes of searching for these documents.

Oftentimes, important information about these policies and procedures was buried in the fine print of documents that students and parents would otherwise have little reason to know about, let alone read carefully, especially given their titles (which generally said nothing about students or sexual harassment): For example, one district website posted “annual notification” documents but failed to provide an explanation of what those documents were or make it possible to search for and find information specific to sexual harassment or the grievance procedure within the documents, which were many pages long and very hard to read. Titling a document “annual notification” does nothing to notify students or their parents that information about sexual harassment is located in that document.

TRAINING, TRAINING, TRAINING.

In addition to having a Title IX Coordinator, Title IX requires that schools train responsible employees to report to the Title IX coordinator, or other appropriate school official, any incidents of sexual harassment or sexual violence.³² Schools also should train responsible employees to inform students about their Title IX-related rights and options for complaining. This training should include information about: 1) what the reporting obligations are of each employee; 2) students’ option to request confidentiality and access confidential advocacy, counseling, or other support services; and 3) their right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.³³ The training documents produced demonstrated that neither school administration/staff members nor students are being properly and adequately trained on issues of sexual harassment and discrimination.

The documentation produced regarding trainings for administrators, teachers and staff on sexual harassment and other Title IX topics was sparse, indicating that either such training is not being carried out, or that districts are not maintaining records of such trainings sufficiently to allow for evaluation of their content and sufficiency.





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stop blaming
my body
for your
harassment.
thanks.

stop blaming
my body
for your
harassment.
thanks.

SOME SCHOOLS ARE GETTING IT RIGHT

Prompt investigations

Schools are required to promptly respond to all complaints of sex discrimination, sexual harassment, or sexual violence, and to take steps to remedy any hostile education environment created by such behavior.³⁴ The Office for Civil Rights recommends that schools complete all investigations of student sexual harassment within 60 calendar days.³⁵

One district surveyed goes above and beyond the legal requirement and OCR's recommendation by requiring that investigations be resolved within 30 days. Delays in investigations have the potential to lead to further harassment and retaliation, therefore, providing for prompter resolution of issues decreases the chance of potential retaliation or hostile environment as a result of harassment.

Helpful, accessible resources

Some of the district websites included specific information about bullying. However, while these websites have a visible link directing students towards additional information about bullying (which is not required by law), most of the websites did not contain information about how to file a complaint related to bullying.

One district includes a helpful "How Do I?" link on its homepage that directs students to a list of questions, including how to "report a concern." However, once you are on that page, no specific guidance is provided about how to report or complain about sexual harassment or discrimination and there is no mention of Title IX specifically.

Training

A handful of districts produced training documents related to Title IX coordinator trainings hosted by the county's Office for Education. That particular training was led by an education law attorney and included information related to Title IX and the California Education Code, and included information about the required anti-discrimination policies, complaint procedures, and types of common Title IX complaints at the K-12 level. No information was provided about how frequent these trainings took place.

Schools should find modern and user friendly ways to publicize their policies, such as through the use of social media, use of shareable age appropriate graphics, through frequent electronic distribution means, such as email, newsletter, blogposts, or picture sharing sites. Text updates can also be sent to reference any new policy, or to simply remind students of where they can find helpful information!



WHERE DO WE GO FROM HERE?

WHAT SCHOOLS, POLICY MAKERS, AND COMMUNITY MEMBERS CAN DO

SCHOOL ADMINISTRATORS: MAKE THIS ISSUE A PRIORITY

Strategies for addressing sexual harassment at schools are most effective when they come from, and are embraced by, those at the top. ERA recommends that schools and districts take the following steps to fulfill the purpose and promise of Title IX:

➔ Update non-discrimination policies and modernize how they are distributed

Schools should make sure they have written policies that clearly and specifically prohibit all types of gender-based discrimination and harassment, and use modern technology to ensure that critical information about these policies is actually reaching students. For example, schools should create their own websites, Facebook pages, or text message campaigns to prevent sexual harassment, disseminate policies, and provide information about how and where students can report harassment.

○ Does the policy cover all types of gender discrimination?

Review your school's or district's sexual harassment and anti-discrimination policies to ensure that they mention and cover all forms of sex discrimination prohibited under Title IX, including sexual harassment, discrimination and bullying based on gender and gender identity, stalking, and sexual assault/violence.

○ Does the policy prohibit online and off-campus harassment?

Schools should ensure that policies clearly prohibit bullying or harassment carried out online, through social media, text messages, or other electronic means, since such harassment can create a hostile environment as much as harassment that takes place on school grounds.

○ Are the policies clearly written?

School administrators can address sexual harassment in the school's official agenda, and should create and publicize the sexual harassment policy by sending a copy to parents and posting it on the school or district website. A copy of the policy should be sent to parents each year.

➔ Make complaint procedures transparent and accessible

Update grievance procedures to explain the complaint process and provide information about the school's or district's Title IX Coordinator, the timelines and process for investigation of complaints, and other resources, such as where students can go to get more information about their rights. Schools should find ways to make it easy for students to report sexual harassment and other forms of gender discrimination, and encourage students to speak out about it. Schools should also make it a practice to provide information about their sexual harassment policy to students and parents whenever a report of harassment is made, whether the complaint is made verbally or in writing.



⊕ Provide comprehensive training on the non-discrimination policies

○ Provide Specific Training to Title IX Coordinators

All Title IX Coordinators should receive individualized training about their Title IX responsibilities, including recognizing and responding to reports of sexual harassment, investigating sexual harassment complaints, dealing with disciplinary matters, and ensuring other staff members are properly trained. They should also be responsible for maintaining records demonstrating that the district and schools are in compliance with Title IX.

○ Train Staff/Administrators regularly

All staff members should be regularly trained by the district on how to recognize sexual harassment of school-aged children. Administrators should provide clear guidance about how staff and faculty should handle sexual harassment of students when it is reported to or witnessed by them. They should also provide staff with the time and financial resources necessary to follow school sexual harassment guidelines.

○ Use Social Media to Inform and Train Students

Training about sexual harassment and bullying could be integrated with existing coursework touching on discrimination and civil rights, stereotyping, and diversity, which provide opportunities for discussing respectful behavior and students' civil rights at school. Specific materials about sexual harassment should be posted and made available at various locations throughout schools and in classrooms. Schools should work to proactively engage students through webinars, tweetchats, google hangouts, and small group sessions. Information about what the school's harassment policy is, and what students can do if they witness or experience harassment, can also be conveyed in posters designed by the students themselves or available online.³⁶

○ Support Student Groups

To help promote a cultural shift in ideals about gender stereotypes, students should be encouraged to start their own student groups so they can learn to be their own advocates about the various issues they face. If and when student groups do form, schools should help to promote the group, make it easy for them to congregate, and help them to find and implement solutions.



POLICYMAKERS AND GOVERNMENT AGENCIES:

HOLD SCHOOLS ACCOUNTABLE AND INCENTIVIZE BEST PRACTICES

○ Require dissemination of policies

Require schools to adopt sexual harassment policies that specifically refer to and cover all types of prohibited sex discrimination. Federal regulations currently require all schools to “adopt and *publish* grievance procedures providing for prompt and equitable resolution of student . . . complaints . . .”³⁷ However the regulations have not been updated to include contemporary means of “publishing” and dissemination, such as via e-mail or through websites. While the Office for Civil Rights recommends that “the notice be prominently posted on school Websites and at various locations throughout the school or campus,”³⁸ further clarification is needed about the frequency and manner in which schools must publish and disseminate policies, and to require that the policy be provided to complainants upon receipt of any sexual harassment complaint.

○ Mandate relevant training

Comprehensive trainings to all staff should be made mandatory to ensure that all school employees can recognize potential sexual harassment, sexual assault, other forms of sex discrimination, and to make sure that designated personnel are instructed on proper investigation methods and procedures. ERA is currently co-sponsoring California Senate Bill 429 (Hannah Beth-Jackson) which will require California Department of Education to develop and post on its website an instructional training video to assist local school districts with comprehensive Title IX compliance.

○ Collect and post data

Schools should be required to report on the number of sexual harassment, discrimination, assault complaints filed each year, which will enable lawmakers, advocates, administrators, as well as students and parents, to determine whether policies are being implemented and followed.



STUDENTS, PARENTS, AND COMMUNITY MEMBERS: GET ACTIVE!

○ Review your school's policies

All students, parents, and community members should review their school's policies and handbooks. Check the materials and documents distributed to students and parents at the beginning of the academic year. Sometimes the sexual harassment policy and grievance procedure for reporting or complaining about it are posted on the school and/or school district websites. To find out, go to the website(s) and search for documents containing the terms “sexual harassment,” “Title IX,” or “bullying.” If you are unable to find the documents, ERA recommends sending an email request for documents to the school principal or Title IX Coordinator or to the Superintendent, if you're looking at the district level.

If you are unable to obtain the documents informally, any individual can make a Public Records Act request to the school or district to obtain information related to

the school's anti-discrimination/anti-harassment policies, grievance procedure, and other documents related to compliance with Title IX and the analogous state law.

Once the policies are obtained, carefully review them to determine whether they are easy to read and whether they comply with Title IX. It is important to review documents related to the actual sexual harassment/discrimination policies, the notification given to the students, the notification given to the staff/administration, how often and how the policies are distributed, as well as all documents related to training and the school's grievance procedures.

○ Ask questions and demand answers!

In addition to reviewing the documents, it is also important speak to the school's administrators, especially the Title IX Coordinator, to ask additional questions to determine whether your school is following the law. The California Title IX Coalition Toolkit, which you can use to direct questions to the Title IX Coordinator regarding their duties and the school's practices and policies with respect to athletic programs, sexual harassment, and treatment of pregnant and parenting teens, is available at ccrwf.org/title-ix/.

○ Know your rights!

If you experience or witness harassment and discrimination, ask the school to provide you with information about your rights and give you a copy of any and all policies related to sexual harassment, including any that describe the procedure for making and investigating harassment complaints.

FOR MORE INFORMATION, GO ONLINE TO
WWW.EQUALRIGHTS.ORG/POWEROFIX



ENDNOTES

¹See, e.g., White House Task Force, “Not Alone,” April 2014, available at <https://www.notalone.gov/assets/report.pdf>; Eliza Gray, Time, “The Sexual Assault Crisis on American Campuses,” May 15, 2014, available at <http://time.com/topic/campus-sexual-assault/>; Holly Ramer, AP, “Sex Assault, Drinking Push Colleges to Moment of Reckoning,” March 22, 2015, available at <http://news.yahoo.com/sex-assault-drinking-push-colleges-moment-reckoning-161300374.html>; Nick Anderson, Sex Offense statistics show U.S. college reports are rising, July 1, 2014, available at http://www.washingtonpost.com/local/education/sex-offense-statistics-show-us-college-reports-are-rising/2014/07/01/982ecf32-0137-11e4-b8ff-89afd3fad6bd_story.html.

²Tyler Kingkade, California Auditor Finds Fault With Public Universities’ Handling of Sexual Assault, July 24, 2014, available at http://www.huffingtonpost.com/2014/06/24/california-auditor-sexual-assault_n_5526130.html; Judy Lin, “California Legislature Passes ‘Yes Means Yes’ Standard for College Sexual Assault Policies,” August 8, 2014, available at http://www.huffingtonpost.com/2014/08/28/california-yes-means-yes_n_5733420.html; Jason Felch, “31 women accuse UC Berkeley of botching sexual assault investigations,” February 26, 2014, <http://articles.latimes.com/2014/feb/26/local/la-me-berkeley-assaults-20140227>; Local Law Makers Introduce Sexual Assault Bills, available at <http://ventura.edhat.com/site/tidbit.cfm?nid=147856>.

³Title IX of the Education Amendments of 1972, Pub. L. 92-318, 86 Stat. 235 (June 23, 1972), codified at 20 U.S.C. § 1681 (“Title IX”).

⁴See 20 U.S.C. § 1681 et seq., as amended; 34 C.F.R. §§ 106.1, 106.31(a),(b); U.S. Dept. of Education Office for Civil Rights (“OCR”), “Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties,” January 2001 (hereinafter, “2001 Sexual Harassment Guidance”), and case law discussed therein at i-iii, available at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>; see also OCR, “Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties,” 62 FR 12034 (1997) (hereinafter, “1997 Sexual Harassment Guidance”), available at <http://www2.ed.gov/about/offices/list/ocr/docs/sexhar01.html>.

California has analogous state laws which prohibit sex discrimination in schools or education programs that receive state (or federal) funding and define sex discrimination as any adverse action taken against an individual because of gender or sex including sexual harassment, sexual violence, domestic violence, dating violence, and stalking. See Cal. Educ. Code § 66250 et seq., Cal. Gov. Code § 11135.

⁵Catherine Hill, Ph.D. and Holly Kearn, M.A., *Crossing the Line: Sexual Harassment at School*, American Association of University Women (AAUW) (2011), available at <http://www.aauw.org/files/2013/02/Crossing-the-Line-Sexual-Harassment-at-School.pdf> (“Crossing the Line”), at p. 2 (citing AAUW’s nationally representative survey of 1,965 students in grades 7-12 and prior research on sexual harassment)

⁶*Supra* note 5, at p. 3.

⁷Bay Area Schools Ignoring Title IX? (October 31, 2012), available at <http://www.nbcbayarea.com/investigations/Ignoring-Title-IX-176518411.html>.

⁸*Id.*

⁹California Public Records Act, Cal. Gov. Code §§ 6250-6270 (“PRA”).

¹⁰This included 116 districts in the counties of San Francisco, Alameda, Marin, Santa Clara, Contra Costa, San Mateo, and Solano. See Appendix A for a full listing of all districts surveyed.

¹¹For a listing of all school districts that received PRA Requests and a summary of their responses, see Appendix B.

¹²See Survey Assessment Tool, attached as Appendix C.

¹³See Appendix B.

¹⁴See, e.g., *Crossing the Line*, *supra* note 5, at p. 2 (citing AAUW’s own nationally representative survey of 1,965 students in grades 7-12 and prior research on sexual harassment); National Coalition for Women and Girls in Education (NCWGE), *Ending Sexual Harassment: Enforcement is Key*, available at <http://>

www.ncwge.org/TitleIX40/Harassment.pdf, at pp. 39-40 (discussing scope and prevalence of harassment at K-12 level).

¹⁵ Crossing the Line, *supra* note 5, at p. 2.

¹⁶ See 2001 Sexual Harassment Guidance, *supra* note 4, at ii-v, 12-13. To hold a school or district liable for monetary damages in a private lawsuit, a student would have to demonstrate actual knowledge and deliberate indifference to the harassment or hostile environment. See *Davis v. Monroe Cnty Bd. of Educ.*, 526 U.S. 629, 643 (1999); see also OCR, "Questions and Answers on Title IX and Sexual Violence," April 29, 2014, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> ("OCR Q&A"), at p. 1.

¹⁷ Crossing the Line, *supra* note 5, at p. 8.

¹⁸ *Id.* at p. 3.

¹⁹ *Id.* at p. 2.

²⁰ *Id.*

²¹ 20 U.S.C. § 1681(a).

²² See OCR, Dear Colleague Letter (2011), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; 2001 Sexual Harassment Guidance, *supra* note 4; OCR Q&A, *supra* note 15; OCR, "Sexual Harassment: It's Not Academic," (September 2008), available at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>.

²³ 34 C.F.R. § 106.8(a).

²⁴ 34 C.F.R. § 106.9(a)-(b).

²⁵ 34 C.F.R. § 106.8(b).

²⁶ 34 C.F.R. § 106.8.

²⁷ See sample Public Records Act request letter, attached as Appendix D.

²⁸ 34 C.F.R. § 106.8(a); OCR Q&A, *supra* note 16.

²⁹ See Appendix B.

³⁰ 31 C.F.R. § 106.9, *et seq.*

³¹ OCR Q&A, *supra* note 16.

³² OCR Q&A, *supra* note 16; see also U.S. Department of Justice, Federal Coordination and Compliance Section, "Questions and Answers Regarding Title IX Procedural Requirements," (last updated November 1, 2001), available at <http://www.justice.gov/crt/about/cor/coord/>

³³ *Id.*

³⁴ C.F.R. § 106.8(b); OCR Q&A, *supra* note 15.

³⁵ OCR Q&A, *supra* 16.

³⁶ See Equal Rights Advocates, Sexual Harassment at School (2013), available at http://www.equalrights.org/wp-content/uploads/2013/04/KYR_SexHarassSch.pdf; ACLU, Title IX and Sexual Assault, available at <https://www.aclu.org/know-your-rights/title-ix-and-sexual-assault>.

³⁷ 34 C.F.R. § 106.8(b).

³⁸ Dear Colleague Letter (2011), *supra* note 22.



APPENDIX

APPENDIX A:

ALL SCHOOL DISTRICTS RECORDS REQUESTS

- | | | |
|---------------------------------------|------------------------------------|----------------------------------|
| 1. Acalanes Union High | 43. Laguna Joint* | 85. Redwood City |
| 2. Alameda City Unified | 44. Lagunitas | 86. Reed Union |
| 3. Albany City | 45. Lakeside Joint | 87. Ross Elementary |
| 4. Alum Rock Union Elementary* | 46. Larkspur-Corte Madera | 88. Ross Valley |
| 5. Antioch Unified | 47. Las Lomitas Elementary | 89. San Bruno Park Elementary* |
| 6. Bayshore Elementary | 48. Liberty Union | 90. San Carlos |
| 7. Belmont-Redwood Shores Elementary* | 49. Lincoln Elementary | 91. San Francisco Unified |
| 8. Benicia Unified | 50. Livermore Valley Joint Unified | 92. San Jose Unified |
| 9. Berkeley Unified | 51. Loma Prieta Joint Union | 93. San Leandro Unified* |
| 10. Berryessa Union Elementary* | 52. Los Altos | 94. San Lorenzo Unified* |
| 11. Bolinas-Stinson Union | 53. Los Gatos Union | 95. San Mateo Union |
| 12. Brentwood Union | 54. Los Gatos-Saratoga Joint Union | 96. San Mateo-Foster City** |
| 13. Brisbane | 55. Luther Burbank | 97. San Rafael Elementary** |
| 14. Burlingame | 56. Martinez Unified | 98. San Rafael City |
| 15. Byron Union | 57. Menlo Park City | 99. San Ramon Valley Unified |
| 16. Cabrillo Unified* | 58. Mill Valley | 100. Santa Clara Unified |
| 17. Cambrian | 59. Millbrae | 101. Saratoga Union |
| 18. Campbell Union Elementary | 60. Milpitas Unified | 102. Sausalito Marin City |
| 19. Campbell Union High School | 61. Moraga | 103. Sequoia Union |
| 20. Canyon Elementary | 62. Moreland | 104. Shoreline Unified |
| 21. Castro Valley Unified* | 63. Morgan Hill Unified | 105. South San Francisco Unified |
| 22. Cupertino Union | 64. Mountain House Elementary* | 106. Sunnyvale |
| 23. Dixie Elementary | 65. Mountain View Whisman* | 107. Sunol Glen Unified |
| 24. Dixon Unified* | 66. Mountain View - Los Altos | 108. Tamalpais Union |
| 25. Dublin Unified | 67. Mt. Diablo Unified | 109. Travis* |
| 26. East Side Union High* | 68. Mt. Pleasant Elementary | 110. Union |
| 27. Emery Unified* | 69. New Haven Unified | 111. Union Joint Elementary** |
| 28. Evergreen Union | 70. Newark Unified | 112. Vacaville Unified |
| 29. Fairfield-Suisun Unified | 71. Nicasio | 113. Vallejo City Unified |
| 30. Franklin-McKinley | 72. Novato Unified | 114. Walnut Creek |
| 31. Fremont Unified | 73. Oak Grove | 115. West Contra Costa Unified |
| 32. Fremont Union High * | 74. Oakland Unified | 116. Woodside Elementary* |
| 33. Gilroy Unified | 75. Oakley Union Elementary | |
| 34. Hayward Unified | 76. Orchard | |
| 35. Hillsborough City | 77. Orinda Union | |
| 36. Jefferson Elementary | 78. Pacifica | |
| 37. Jefferson Union High School | 79. Palo Alto Unified* | |
| 38. John Swett Unified | 80. Piedmont Unified | |
| 39. Kentfield | 81. Pittsburg Unified* | |
| 40. Knightsen | 82. Pleasanton Unified | |
| 41. La Honda-Pescadero Unified | 83. Portola Valley | |
| 42. Lafayette | 84. Ravenswood City Elementary* | |

* Did not respond or produce documents in response to PRA request

** Responded to PRA request through or with another district

APPENDIX B:

SUMMARY OF DISTRICT RESPONSES

	Title IX Coordinator		Non-Discrimination Policy Distribution and Training to Teachers and Staff		Harassment Grievance Procedures for Students					
	Does the district...		Does the district...		Does the grievance policy provide or require...					
SCHOOL DISTRICT	Identify Title IX Coord.	Train Title IX Coord.	Distribute the policy to teachers and staff	Provide trainings to teachers and staff on the policy	A process for investigating and resolving discrimination/harassment complaints	Information regarding who students should submit discrimination/harassment complaints	An adequate, reliable, and impartial complaint investigation	Provide for reasonable and prompt time frames for investigating complaints	Districts to provide notice to parties of the outcome of complaints	District to take steps to prevent future discrimination/harassment
Acalanes Union High	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Alameda City Unified	✗	◆	◆	◆	◆	◆	✓	◆	◆	◆
Albany City	✗	◆	◆	◆	✓	✓	✓	✓	✓	◆
Antioch Unified	✓	◆	◆	◆	◆	◆	◆	◆	◆	◆
Bayshore Elementary	✗	◆	◆	◆	◆	◆	◆	◆	◆	◆
Benicia Unified	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Berkeley Unified	✓	✓	✓	✓	✓	✓	✓	◆	✓	✓
Bolinas-Stinson Union	✓	◆	◆	◆	◆	◆	◆	◆	◆	◆
Brentwood Union	✓	◆	✓	◆	✗	◆	◆	◆	◆	◆
Brisbane	✗	◆	✓	✓	✓	✓	✓	✓	✓	✓
Burlingame	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Byron Union	✓	◆	◆	◆	✓	✓	✓	✓	✓	◆
Cambrian	✓	◆	✓	◆	✓	✓	✓	✓	◆	◆
Campbell Union Elementary	✓	◆	◆	◆	✓	✓	✓	✓	◆	✓
Campbell Union High School	✓	◆	✓	◆	✓	✓	✓	✓	✓	✓
Canyon Elementary	✗	◆	◆	◆	◆	◆	◆	◆	◆	◆
Cupertino Union	✗	◆	◆	◆	✓	✓	✓	✓	◆	◆
Dixie	✓	◆	✓	✓	✓	✓	✓	✓	✓	◆
Dublin Unified	✗	◆	◆	◆	✓	✓	✓	✓	✓	◆
Evergreen Union	✓	✓	◆	◆	✓	✓	✓	✓	✓	✓
Fairfield-Suisun Unified	✓	✓	◆	◆	✓	✓	✓	✓	✓	✓
Franklin-McKinley	✗	◆	◆	◆	✓	◆	✓	✓	✓	◆
Fremont Unified	✓	◆	✓	◆	✓	✓	✓	✓	✓	◆
Gilroy Unified	✓	◆	◆	◆	✓	✓	✓	✓	✓	✓
Hayward Unified	✓	◆	✓	◆	✓	✓	✓	✓	✓	◆
Hillsborough City	✓	◆	◆	◆	✓	✓	✓	✓	✓	✓
Jefferson Elementary	✓	◆	◆	◆	✓	✓	✓	◆	◆	◆
Jefferson Union High School	✓	◆	◆	◆	✓	✓	◆	◆	◆	◆
John Swett Unified	✓	✓	✓	◆	✓	✓	✓	✓	✓	✓
Kentfield	✓	◆	◆	◆	◆	◆	◆	◆	◆	◆
Knightesen	✗	◆	◆	◆	✓	✓	✓	✓	✓	✓

✓ = Yes ✗ = No ◆ = Don't know/Can't Determine

	Title IX Coordinator		Non-Discrimination Policy Distribution and Training to Teachers and Staff		Harassment Grievance Procedures for Students					
	Does the district...		Does the district...		Does the grievance policy provide or require...					
SCHOOL DISTRICT	Identify Title IX Coord.	Train Title IX Coord.	Distribute the policy to teachers and staff	Provide trainings to teachers and staff on the policy	A process for investigating and resolving discrimination/harassment complaints	Information regarding who students should submit discrimination/harassment complaints	An adequate, reliable, and impartial complaint investigation	Provide for reasonable and prompt time frames for investigating complaints	Districts to provide notice to parties of the outcome of complaints	District to take steps to prevent future discrimination/harassment
La Honda-Pescadero Unified	✖	◆	✓	✓	✓	✓	✓	✓	✓	◆
Lafayette	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Lagunitas	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Lakeside Joint	✖	◆	◆	◆	✓	✓	✓	✓	✓	✓
Larkspur-Corte Madera	✓	✓	◆	✓	✓	✓	✓	✓	✓	✓
Las Lomitas Elementary	✖	◆	✓	✓	✓	✓	✓	✓	✓	✓
Liberty Union	✖	◆	✓	✓	✓	✓	✓	✓	✓	◆
Lincoln Elementary	✖	◆	◆	◆	✓	◆	✓	✓	✓	◆
Livermore Valley Joint Unified	✖	◆	◆	◆	✓	◆	✓	◆	◆	◆
Loma Prieta Joint Union	✖	◆	✓	✓	✓	✓	✓	✓	✓	✓
Los Altos	✓	◆	◆	◆	✓	✓	✓	✓	◆	◆
Los Gatos Union	✖	◆	✓	◆	✓	◆	✓	✓	✓	✓
Los Gatos-Saratoga Joint Union	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Luther Burbank	✓	◆	✓	◆	✓	✓	✓	✓	✓	◆
Martinez Unified	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Menlo Park City	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Valley	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Millbrae	✓	✓	✓	◆	✓	✓	✓	✓	✓	✓
Milpitas Unified	✓	◆	✓	✓	✓	✓	✓	✓	✓	◆
Moraga	✓	◆	◆	✓	✖	◆	◆	◆	◆	◆
Moreland	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Morgan Hill Unified	✓	◆	✓	✓	✓	✓	✓	✓	◆	✓
Mountain View - Los Altos	✓	◆	✓	◆	✓	✓	✓	✓	✓	
Mt. Diablo Unified	✖	◆	✓	✓	✓	✓	✓	✓	✓	✓
Mt. Pleasant Elementary	✖	◆	✓	◆	✓	✓	✓	✓	✓	✓
New Haven Unified	✓	✓	✓	✓	◆	◆	◆	◆	◆	◆
Newark Unified	✖	✓	◆	✓	✓	✓	✓	◆	✓	◆
Nicasio	✖	◆	✓	✓	✓	✓	✓	✓	✓	✓
Novato Unified	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓

✓ = Yes ✖ = No ◆ = Don't know/Can't Determine

	Title IX Coordinator		Non-Discrimination Policy Distribution and Training to Teachers and Staff		Harassment Grievance Procedures for Students					
	Does the district...		Does the district...		Does the grievance policy provide or require...					
SCHOOL DISTRICT	Identify Title IX Coord.	Train Title IX Coord.	Distribute the policy to teachers and staff	Provide trainings to teachers and staff on the policy	A process for investigating and resolving discrimination/harassment complaints	Information regarding who students should submit discrimination/harassment complaints	An adequate, reliable, and impartial complaint investigation	Provide for reasonable and prompt time frames for investigating complaints	Districts to provide notice to parties of the outcome of complaints	District to take steps to prevent future discrimination/harassment
Oak Grove	✓	◆	✓	◆	✓	✓	✓	✓	✓	◆
Oakland Unified	✓	◆	✓	◆	✓	✓	✓	✓	✓	◆
Oakley Union Elementary	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Orchard	✓	◆	◆	◆	◆	◆	◆	◆	◆	◆
Orinda Union	✓	◆	✓	◆	◆	◆	◆	◆	◆	◆
Pacifica	✓	◆	✓	✓	✓	✓	✓	◆	◆	◆
Piedmont Unified	✗	◆	✓	✓	✓	✓	✓	✓	✓	✓
Pleasanton Unified	✓	◆	◆	◆	✓	✓	✓	✓	✓	◆
Portola Valley	✗	◆	◆	◆	◆	◆	◆	◆	◆	◆
Redwood City	✗	◆	✓	◆	✓	◆	✓	✓	◆	✓
Reed Union	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Ross	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
Ross Valley	✗	◆	✓	✓	✓	✓	✓	◆	◆	◆
San Carlos	✗	◆	◆	◆	✓	◆	◆	◆	◆	◆
San Francisco Unified	✓	◆	◆	◆	✓	✓	✓	✓	◆	◆
San Jose Unified	✓	◆	✓	◆	✓	✓	✓	✓	◆	✓
San Mateo Union	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
San Rafael City	✗	◆	✓	◆	✓	✓	✓	✓	✓	✓
San Ramon Valley Unified	✓	◆	◆	◆	✓	✓	✓	✓	✓	◆
Santa Clara Unified	✓	◆	✗	◆	✓	✓	✓	◆	✓	◆
Saratoga Union	✗	◆	◆	◆	✓	✓	✓	◆	✓	◆
Sequoia Union	✓	◆	◆	◆	◆	◆	◆	◆	◆	◆
Shoreline Unified	✓	◆	◆	◆	✓	✓	✓	✓	✓	◆
South San Francisco Unified	✓	◆	◆	◆	✓	✓	✓	✓	✓	✓
Sausalito Marin City	✗	◆	◆	◆	◆	◆	◆	◆	◆	◆
Sunnyvale	✗	◆	◆	◆	✓	✓	✓	✓	✓	✓
Sunol Glen Unified	✓	◆	◆	◆	◆	◆	✓	✓	✓	◆
Tamalpais Union	✗	◆	✓	◆	✓	✓	✓	✓	✓	✓
Union Elementary	✓	✓	✓	◆	✓	✓	✓	✓	✓	✓
Vacaville Unified	✓	◆	✓	◆	✓	✓	✓	✓	✓	✓
Vallejo City Unified	✗	◆	◆	◆	✓	◆	◆	✓	◆	◆
Walnut Creek	✓	◆	✓	✓	✓	✓	✓	✓	✓	✓
West Contra Costa Unified	✓	◆	◆	◆	✓	✓	✓	✓	✓	✗

✓ = Yes ✗ = No ◆ = Don't know/Can't Determine

APPENDIX C: SURVEY ASSESSMENT TOOL

NAME OF SCHOOL DISTRICT: _____

TITLE IX COORDINATOR

Did the District/school produce documents? ☐ YES ☐ NO

Name of Title IX Coordinator: _____

Job Title of Title IX Coordinator: _____

Is being the Title IX Coordinator the employee's primary function? ☐ YES ☐ NO

JOB DUTIES:

- ☐ Receiving/resolving Title IX complaints
- ☐ Reviewing Title IX grievance procedures
- ☐ Reviewing school's policies/practices to ensure they are effective
- ☐ Reviewing school's policies/practices to ensure they are nondiscriminatory
- ☐ Assessing school's Title IX compliance

NON-DISCRIMINATION POLICY

Does the District/school have a written anti-discrimination or anti-harassment policy?

☐ YES ☐ NO

Does the policy include the following elements:

- ☐ Definition/explanation of what constitutes sexual harassment or sex discrimination
- ☐ Grievance procedures with instructions about what to do if a student has been harassed or discriminated against
- ☐ Contact information for counseling and victim services on and off school ground
- ☐ Don't know/can't determine

ACCESSIBILITY OF TITLE IX INFORMATION

Does the district have a website? ☐ YES ☐ NO Domain: _____

Is the non-discrimination/harassment policy easily accessible on the district website? ☐ YES ☐ NO

Does the district's website link to its schools' websites? ☐ YES ☐ NO ☐ Online? ☐ Mail? ☐ Other?

Is the policy distributed to staff/teachers? ☐ YES ☐ NO When? How frequently? _____

Are the penalties for harassment/discrimination clearly spelled out in the policy? ☐ YES ☐ NO

Are the penalties for harassment/discrimination mandatory or discretionary?

☐ Mandatory ☐ Discretionary ☐ Don't Know/can't tell

Is there a clearly established disciplinary policy for students who engage in prohibited forms of discrimination?

☐ YES ☐ NO

Is there a clearly established disciplinary policy for staff who engage in prohibited forms of discrimination?

☐ YES ☐ NO

Does the policy have a strict no-tolerance policy about sexual harassment? ☐ YES ☐ NO

TRAINING

Is training on the non-discrimination/harassment policy provided to the Title IX Coordinator(s)/class of person that handle the Title IX complaints? ☐ YES ☐ NO

Is it voluntary or mandatory? ☐ Voluntary ☐ Mandatory

Do the trainings specifically address:

☐ Sexual Assault/Rape ☐ Dating Violence ☐ Cyber-bullying

Discrimination/harassment based on: ☐ Sex ☐ Gender ☐ Gender Identity ☐ Gender Expression

Bullying based on: ☐ Sex ☐ Gender ☐ Gender Identity ☐ Gender Expression

Is training on the non-discrimination/harassment policy provided to the staff/administration? ☐ YES ☐ NO

Is the non-discrimination/harassment policy easily accessible on the school's website? ☐ YES ☐ NO

If not easily accessible, can you find it using search terms, such as ("bullying," "harassment," "discrimination," or "Title IX," etc.)? ☐ YES ☐ NO

Do the links work? ☐ YES ☐ NO

Is the language of the non-discrimination/harassment policy clear and easy to understand? ☐ YES ☐ NO

Does the policy specifically address:

☐ Sexual Assault/Rape ☐ Dating Violence ☐ Cyber-bullying

Discrimination/harassment based on: ☐ Sex ☐ Gender ☐ Gender Identity ☐ Gender Expression

Bullying based on: ☐ Sex ☐ Gender ☐ Gender Identity ☐ Gender Expression

Does the policy mention Title IX? ☐ YES ☐ NO

Is the right to file a Title IX complaint with the Office for Civil Rights, California Department of Education, and/or sue clearly spelled out?

☐ YES ☐ NO

Is the policy distributed to students? ☐ YES ☐ NO When? How frequently? _____

What is the method of distribution? ☐ Email? ☐ Handbook? ☐ Posted online? ☐ Mail? ☐ Other?

Is the policy distributed to parents? ☐ YES ☐ NO When? How frequently? _____

What is the method of distribution? ☐ Email? ☐ Handbook? ☐ Posted?

Is it voluntary or mandatory? ☐ Voluntary ☐ Mandatory

Do the trainings specifically address:

☐ Sexual Assault/Rape ☐ Dating Violence ☐ Cyber-bullying

Discrimination/harassment based on: ☐ Sex ☐ Gender ☐ Gender Identity ☐ Gender Expression

Bullying based on: ☐ Sex ☐ Gender ☐ Gender Identity ☐ Gender Expression

GRIEVANCE PROCEDURES

Does the district have a grievance procedure for reporting/investigating/ resolving students' harassment/discrimination complaints?

☐ YES ☐ NO

Does the grievance procedure include:

☐ A clear indication of who can complain and what conduct is covered?

☐ Designation of whom students may complain to?

☐ Guidelines for investigation of complaints?

☐ Steps to prevent future and remedy past discrimination/harassment?

☐ Provision of notice to parties of the outcome of complaints?

☐ Designated and reasonably prompt time frames for completing? investigation?

☐ Remedies for complainant?

☐ Non-retaliation clause?

☐ Procedures/ promise to protect confidentiality?

Is the grievance procedure distributed to students? ☐ YES ☐ NO

Is the grievance procedure distributed to staff/admin? ☐ YES ☐ NO

APPENDIX D:

SAMPLE PUBLIC RECORDS ACT REQUEST LETTER



«Date»

First Class Mail

«Superintendent_Name»
«District_Name» School District
«Mailing_Address_Line_1»
«Mailing_Address_Line_2»
«City», CA «Zip_Code»

RE: Request for Disclosure of Public Records

Dear «Superintendent_Salutation»:

Equal Rights Advocates ("ERA") is a non-profit legal organization based in San Francisco dedicated to protecting and expanding educational access and opportunities for women and girls. This letter is to request records relating to the implementation of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*) that are in the custody or possession of «District_Name» School District for purposes of inspection and copying, pursuant to the California Public Records Act, Government Code § 6250 *et seq.* The specific records sought are described in greater detail below, including the federal regulations which pertain to each request.

DEFINITIONS USED IN THIS REQUEST

As used herein, the term "documents" includes but is not limited to any printed or electronically stored information, including but not necessarily limited to reports, evaluations, memoranda, correspondence, letters, e-mails, charts, graphs, flyers, meeting agendas and minutes, diagrams, forms, DVDs, tapes, CDs, audio recordings, notes or other similar materials.

The term "Title IX" refers to Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, the federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. As used herein, the term "Title IX" also refers to the U.S. Department of Education's Title IX regulations, codified at 34 C.F.R. § 106.1, *et seq.*, and encompasses any policy, rule, or regulation that prohibits discrimination on the basis of sex or gender that was in effect or applicable to your district during the relevant time period.

As used herein, the term, "relevant time period" refers to the period from January 1, 2009 through and including the date of this request (November 2, 2012).

RECORDS REQUESTED

Please provide copies of the records specified below. Each numbered or lettered paragraph should be considered a separate request under the California Public Records Act. For each set of records produced, please identify the paragraph to which the records are intended to respond.

- (1) *Designation of Responsible Employee as Title IX Coordinator(s)* (34 C.F.R. § 106.8(a)). Any and all documents that reflect, identify, or describe the name(s) and contact information for each and every designated Title IX coordinator or officer that has served any or all of the schools in your district during the relevant time period.
 - a. Any and all documents reflecting or showing the date(s) when the person(s) designated as Title IX coordinator(s) for your district was/were assigned to that position;
 - b. Any and all documents reflecting or showing the date(s) when your district's designated Title IX coordinator(s) was/were notified of such assignment;
 - c. Any and all documents that describe or reflect the job duties and responsibilities of the person(s) designated as Title IX coordinator(s) for any/all schools within your district.

- (2) *Coordination and Training of Responsible Employee and District Staff* (34 C.F.R. § 106.8). Any and all documents that reflect, describe, evidence, or otherwise relate to your district's policies and/or procedures for making a Title IX complaint that were in effect during the relevant time period and have applied and/or been distributed to:

- a. Students;
- b. Parents;
- c. Teachers;
- d. Principals; and/or
- e. Other school district staff or employees.

In responding to this request, please provide and/or indicate which, if any, of the responsive policies and procedures documents are available and/or disseminated in any language other than English, pursuant to California Education Code § 48985.

- (3) *Creation and Dissemination of Notice of Nondiscrimination Policy* (34 C.F.R. § 106.9 (a)-(b)). Any and all documents that reflect, describe, evidence, or otherwise relate to any training about Title IX (and/or the prohibition on sex discrimination) that your district has provided to or required to be completed by:

- a. Students;
- b. Parents;
- c. Teachers;
- d. Principals; and/or
- e. Other school district staff or employees

Adoption and Publication of Grievance Procedures (34 C.F.R. § 106.8 (b)). Any and all documents that reflect, describe, evidence or otherwise relate to your district's response(s) to any complaints that have been made concerning Title IX compliance and/or discrimination on the basis of sex/gender during the relevant time period. **Please note that any personal or identifying information for students or personnel who are the subjects and/or objects of complaints may be redacted.**

- (4) *Assurance of Compliance – Civil Rights Certificate* (Title IX). Any and all Assurance of Compliance – Civil Rights Certificates (OMB Approval No. 18070-0503) that have been signed and/or returned to the U.S. Department of Education, Office for Civil Rights on behalf of your district during the relevant time period.

ERA is unaware of any provisions of law exempting the above-requested records from disclosure. Pursuant to Government Code § 6257, we therefore ask that you make these records "promptly available" for inspection.

If you believe that an express provision of law exists to exempt from disclosure all or a portion of the material we have requested, please notify us pursuant to Government Code § 6256 of the reasons for that determination not later than 10 days from your receipt of this request. If only a portion of the information requested is exempt from disclosure by express provisions of the law, then, pursuant to Government Code § 6257, please segregate and delete (only) that material in order that the remainder of the information may be released.

Because Equal Rights Advocates is a nonprofit organization, we request that you waive any fees that would be normally applicable to a Public Records Act request. See *North County Parents Organization v. Dept. of Education*, 23 Cal. App. 4th 144 (1994). Should you be unable to do so, please let us know if the direct costs associated with reproducing the documents requested herein will exceed one hundred dollars (\$100.00) prior to incurring such costs.

CONCLUSION

We have attempted to be as specific as possible in designating the public records we wish to review given that we are generally unfamiliar with your school district's policies and practices regarding the collection and maintenance of these records. If any of our requests are unclear or insufficiently focused, we request that the school district provide us with the assistance required under Government Code section 6253.1, which requires agencies to "assist[] the member of the public to identify records and information that are responsive to the request or to the purpose of the request." Similarly, if any of the documents requested are available and/or can be downloaded from a publicly accessible website, please provide us with the necessary information to locate them.

We understand that some of the documents we have requested may contain information that would identify individuals if produced in unredacted form. We both expect and encourage your district to comply with its obligation to protect the privacy of its students and employees. We therefore request that, where compliance with a request above intersects with school district policy prohibiting the dissemination of personal or employee information, responsive documents be redacted to replace students' or other parties' names with numbers or codes.

Please do not hesitate to contact the undersigned if you have any questions. Thank you in advance for your timely attention to this request.

Sincerely yours,

Keasara Williams, Staff Attorney
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