



ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 0112

PAGE: 1 OF 7

CATEGORY: School District, Nondiscrimination

EFFECTIVE: 7-21-75

SUBJECT: Nondiscrimination on the Basis of Sex
in District Programs and Activities

REVISED: 3-31-06

A. PURPOSE AND SCOPE

1. To outline administrative procedures governing implementation of federal and state laws that mandate nondiscrimination on the basis of sex in educational institutions.
2. **Related Procedures:**

Equal opportunity in employment	0100
Employee complaints alleging harassment or discrimination	7110
Agency complaints alleging discrimination	0120
Criteria for instruction and for adoption and use of instructional materials	4050

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: A-3500, A-3700; P.L. 92-318, Title IX, Educational Amendments of 1972 (20 USC Sections 1681 *et seq.*); Education Code Sections 200 *et seq.*
2. **Title IX, Educational Amendments of 1972.** 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 education program or activity receiving federal financial assistance.” Noncompliance can result in federal funds being withheld from the particular educational program or activity or part thereof in which such noncompliance is found.
3. **Title IX General Provisions**
 - a. **Educational and related programs.** No course may be offered or educational program conducted separately for males or females, including “health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.”
 - (1) **Physical education separation and grouping.** Students may be separated within physical education classes or activities when engaging in wrestling, soccer, football, basketball, and other sports the purpose or major activity of which involves bodily contact. Students may be grouped in physical education classes on the basis of ability, provided specified standards of individual performance are used. These standards must be applied without regard to sex; however, “where use of a single standard of measuring skill or progress in physical education has an adverse effect on members of one

sex. . . other appropriate standards which do not have such an effect” shall be used.

- (2) **Athletics.** No student may be excluded on the basis of sex from participation in interscholastic, intramural, or group athletics. Separate teams, however, are permitted when selection is based upon competitive skill, or for a contact sport. However, when there is only a team in a particular sport for one sex, the sport is not a contact sport, and “opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered.”
- (3) **Expenditures.** Equality of athletic opportunity is required for both male and female students. Although regulations do not require equivalency of expenditures for male and female athletics, the following factors are to be considered:
 - (a) Effective accommodation of the interests and abilities of members of both sexes by the selection of sports and levels of competition
 - (b) Provision of equipment and supplies
 - (c) Scheduling of games and practice time
 - (d) Travel and per diem allowance
 - (e) Opportunity to receive coaching
 - (f) Assignment and compensation of coaches
 - (g) Provision of locker rooms, practice and competitive facilities
 - (h) Provision of medical and training facilities and services
 - (i) Publicity
- (4) **Sex education.** Those portions of sex education classes dealing “exclusively with human sexuality” may, but need not, be conducted in separate sessions for boys and girls.

- (5) **Choruses** in which participating students are selected on the basis of vocal range are permitted, even if they result in being composed primarily of either male or female students.
- b. **Textbooks.** Regulations explicitly provide that choice of textbooks and other curriculum materials is left to the district.
- c. **Counseling.** The same counseling services must be offered to both male and female students. In addition, different counseling and testing materials may not be used for male and female students.
- d. **Marital status or pregnancy.** Students may not be discriminated against because of marital status or pregnancy. If separate programs are offered for pregnant students, the programs must be voluntary, and the educational program must be same as that offered to other students. A doctor's certificate may be required for continued participation in the normal educational program or activity if such a certificate is required of all students who may be physically or emotionally unable to participate in a program or activity.
- e. **Employment counseling and assistance to students.** Employment assistance, when available, shall not discriminate on the basis of sex.
4. **California Sex Equity in Education Law (Education Code Sections 200 *et seq.*).** "It is the policy of the State of California to afford all persons, regardless of their sex, equal rights and opportunities in the educational institutions of the state. . . ." General provisions include:
- a. **Educational and related programs.** The policy prohibits discrimination in the following areas:
- (1) **Educational programs :** Exclusion from participation in or denial of benefits of any academic, extracurricular, research, occupational training, or other program activity.
- (2) **Athletics :** Exclusion from participation in or denial of "equivalent" opportunity in athletics programs.
- (3) **Employment :** Discrimination among persons in employment practices and conditions, including students and nonstudents, academic and nonacademic personnel.

(4) **Marital status or pregnancy:** Application of any rules pertaining to parental, family, or marital status of a person. The policy also prohibits exclusion from any program, activity or employment due to pregnancy or related conditions.

b. **Instructional materials.** School districts must adopt instructional materials in accordance with the provisions of Education Code Section 60040 (Procedure 4050).

5. **Sexual Harassment**

a. **Prohibition.** The district prohibits all sexual harassment (C.2.) and any sexual harassment that has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment. The district also prohibits sexual harassment in which a student's grades, benefits, services, honors, program, or activities are dependent on submission to such conduct.

b. **Filing a complaint.** A complaint alleging a violation of this procedure may be filed by a student or parent/guardian on the "Uniform Complaint Form" (E.1.). This form may be obtained from the Office of General Counsel, Eugene Brucker Education Center, 4100 Normal Street, San Diego, CA 92103. The completed form should be filed with the principal at the complaining student's school.

c. **Reporting of complaint at school site.** Students, or their parents/guardians, should report any sexual harassment promptly to their school principal, vice principal, counselor, or teacher. Additionally, all employees shall notify their supervisor (i.e., principal or vice-principal) if they observe or receive a report of a behavior or circumstance that may constitute sexual harassment. *The principal or vice principal will explain to the student and parents/guardians the steps for filing a complaint.* Upon notice of possible discrimination, the responsible school official will contact the student and parent/guardian affected to discuss what actions the student or parents/guardians are seeking in response to the discrimination. All parties will agree to measures to ensure the student's immediate safety, pending the results of the investigation. *Regardless of whether the student or parents/guardians, or separate entity files a complaint,* the responsible school officials shall make a prompt, thorough, impartial investigation on the complaint and shall provide the complainant with a written decision on the complaint within ten (10) workdays of the filing of the complaint.

- d. **School site decision.** Written notice must be provided to all parties regarding the results of the investigation. If discrimination is determined to have occurred, the notice must include a description of corrective actions taken and notice that the student or parent/guardian may appeal to the Title IX coordinator if they believe the corrective actions are inadequate. If discrimination is determined not to have occurred, the notice shall advise the complainants of their right to appeal the decision to the Title IX coordinator.
 - e. **Appeal to Title IX coordinator.** If a student or parent/guardian complaint alleging a violation of this procedure cannot be resolved at the school level, the student or parent/guardian shall be advised of their right to appeal the school decision on their complaint to the district's Title IX coordinator. The responsible school official shall also provide the student or parent/guardian with a copy of this procedure to apprise them of the steps for processing their complaint.
6. **District Title IX Coordinator.** The district Title IX coordinator is the Legal Specialist, Labor Relations Department, Office of the Chief of Staff.
- a. **Responsibilities.** The Title IX coordinator is responsible for enforcing this procedure. The coordinator is also responsible for receiving, investigating, and processing all complaints under this procedure relating to students and shall undertake any additional investigation deemed necessary to resolve complaints.
 - b. **Corrective action.** If discrimination is determined to have occurred, whether after investigation at the school or by the Title IX coordinator, the corrective actions must be designed to end the discrimination, eliminate any hostile environment that has been created, and prevent further discrimination.
 - c. **Retaliation prohibited.** Upon resolution of a complaint, whether at the school level or by the Title IX coordinator, the student and parents/guardians and alleged perpetrator(s) will be provided notice that retaliation is prohibited.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to, Title IX Coordinator, Labor Relations Department, Office of the Chief of Staff.
2. **Definition. Sexual harassment:** A form of sexual discrimination which includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, verbal, visual, or physical conduct of a sexual nature made by someone from or in the

educational setting (see Office for Civil Rights Sexual Harassment Guidance, 62 Federal Register 12034, March 13, 1997).

3. **Responsibilities**

- a. **Compliance.** A single-page assurance of compliance is required from educational institutions before they receive financial assistance from state or federal agencies.
 - b. **Districtwide coordinator of compliance.** The district Title IX coordinator, Labor Relations Department, Office of the Chief of Staff, will be responsible for matters affecting students, programs, and personnel.
4. **Complaints alleging noncompliance** in discrimination against students shall be resolved informally at the local level whenever possible (i.e., by the principal).
- a. **A student who wishes to have a grievance heard** under this procedure must initiate action within twenty (20) workdays of the time of the incident leading to the grievance.
 - b. **Appeals.** The grievant may appeal the principal's decision to the Title IX coordinator. The appeal shall be in writing and must be submitted within ten (10) workdays following the decision of the principal. The Title IX coordinator shall hear both sides of the case alleging discrimination and give his/her decision within twenty (20) workdays following receipt of the complaint. Subsequent appeals shall be made through normal administrative channels, with a final decision made by the Board of Education, if necessary.

D. **IMPLEMENTATION**

1. **District**

- a. **Develops and adopts** a policy and plan of supporting practices for systematic and consistent consideration of gender equity in all its programs and operations.
- b. **Assesses Title IX compliance**, develops corrective measures, and monitors their effectiveness.

2. **School**

- a. **Notifies students and parents/guardians** of district policy of nondiscrimination on the basis of sex through:

- (1) Issuance of brochure that delineates parents' rights and responsibilities under the new federal legislation including Title IX notification requirement.
- (2) Student handbooks and any other publications that set forth the rules, regulations, procedures, and standards of conduct.
- (3) Posting of the policy in a prominent location in the main administration building or other area of the school site visible to students.
- (4) Providing the written policy as part of all orientation programs (K-12) for new students at the beginning of each semester and summer school.

This notification shall be supplemented in other media available to parents/guardians and students (e.g., PTA, bulletins, school newsletters, and newspapers).

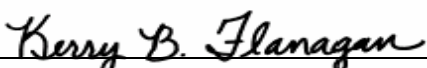
- b. **Annually assesses gender equity issues** and develops site action plans that implement supportive action.
 - c. **Works to reduce number of classes** with disproportionate male/female enrollments.
3. **School and district** handle complaints of alleged discrimination as outlined in C.4.

E. FORMS AND AUXILIARY REFERENCES

1. Uniform Complaint Form, available from the Office of General Counsel

F. REPORTS AND RECORDS

G. APPROVED BY



Chief of Staff, Kerry Flanagan
For the Superintendent of Schools