

# Title IX and Institutional Reporting Duties

## Southwestern Community College District

3.21.24





**1972**

What is Title IX?

“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.*”

**20 U.S.C. §1681 & 34 C.F.R. Part 106 (1972)**

# Title IX Must do the following:



## **Investigate:**

Be Thorough

Reliable

Impartial



## **Process:**

Prompt

Effective

Equitable



## **Remedies:**

Act reasonably to stop discrimination

Act reasonably to prevent recurrence

Act equitably to remedy effects

# When does Title IX apply?

Title IX applies, and **jurisdiction is required**, when the Recipient has:

- Control over the harasser (Respondent) AND
- control over the context of the harassment.

“Education program or activity” means...

- locations, events, or circumstances under substantial control.

Greeks and Student Organizations

- **any** building owned or controlled by an officially recognized student organization

# Title IX Related Areas

## Sex Based Discrimination

|                      |  |                             |
|----------------------|--|-----------------------------|
| Program Equity       | Recruitment, Admissions, & Access          | Pregnancy                   |
| Athletics            | Employment, Recruitment, & Hiring          | Extra-curricular activities |
| Housing              | Access to Course Offerings                 | Salaries & Benefits         |
| Financial Assistance | Facilities                                 | Funding                     |
|                      | Sex, Sexual Orientation, & Gender Identity |                             |

## Sexual Harassment

- Quid Pro Quo
- Hostile Environment
  
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking

## Retaliation

# Institutional Responsibilities

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Once an official with authority has actual notice of Discrimination/Harassment/Retaliation (DHR) and or sexual harassment/sexual misconduct, the institution must:

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Take immediate and appropriate steps to **investigate** what occurred. The obligation to investigate is absolute, even if just an Initial Assessment is completed

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Take prompt and effective action to: **Stop** the behavior

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**Prevent** the recurrence

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**Remedy** the effects

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This is regardless of whether the Reporting Party makes a formal complaint or asks the school to take action.

# What is “actual notice” mean?

§ 106.30(a) of the Final Rule defines what exactly constitutes such **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 the authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school.”**

Translation: When you are told something, or witness something, **REPORT IT** to Title IX.

# Role of the Responsible Employee

The Department of Education applies a “**responsible employee**” rubric to trigger response obligations by an institution.

A “responsible employee” is an employee who:

- **has authority to take action** to redress the harassment, or
- **has the duty to report** to appropriate school officials sexual harassment or any other misconduct by students or employees, or
- is an individual “**who a student could reasonably believe has this authority or responsibility.**”

A postsecondary institution or an elementary or secondary school was deemed to have notice requiring responsive action when a responsible employee “knew” or “should have known” about possible sexual harassment.



How do I  
fulfill my  
role?

**1. Upon witnessing an incident or upon receipt of a report of:**

- discrimination
- harassment
- retaliation



**File a DHR report on the Title IX webpage**



**2. Upon witnessing an incident or upon receipt of a report of:**

- sexual assault
- dating or domestic violence
- stalking



**File a Sexual Misconduct report on the Title IX webpage.**

## Definition: Sexual Harassment:

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

- (1) An employee of the [school] conditions the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

The first category is commonly referred to as “quid pro quo” sexual harassment, meaning that a school employee offers something to an individual in exchange for sexual conduct.



# Definition: Sexual Harassment

(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 school's education program or activity; or

The second category incorporates the definition of sexual harassment set out by the Supreme Court in a case about when **a school may be required to pay financial compensation** in a lawsuit for sexual harassment by one student toward another student. The case is *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).

# Definition of Sexual Harassment

Any of the crimes below are covered under Title IX

(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).

# Definition: Sexual Assault

Sexual assault is a form of sexual harassment that is prohibited under Title IX.

It includes any sexual act directed against a complainant without their consent.

This includes acts such as rape, fondling without consent, incest or statutory rape. Any act of vaginal or anal penetration, however slight, with any body part or object, or oral genital contact of another person, without consent, is also considered sexual assault

# Definition: Dating Violence

- Dating violence includes violence committed by a person who has been in a social relationship of a romantic or intimate nature with the complainant; the existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

# Definition: Domestic Violence

- Domestic violence includes felony or misdemeanor crimes of violence committed by: a current or former spouse or intimate partner of the complainant, a person with whom the complainant shares a child, a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, a person similarly situated to a spouse of the complainant under the jurisdiction's domestic or family violence laws, or any other person against a complainant who is protected under the domestic or family violence laws of the jurisdiction.

# Definition: Stalking

- Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others or to suffer substantial emotional distress.

The 2020 amendments cover instances of stalking based on sex—including stalking that occurs online or through messaging platforms, commonly known as cyber-stalking—when it occurs in the school's education program or activity





What is the address of the Title IX webpage where I should enter a report?

[Title IX & Campus SaVE Act \(swccd.edu\)](http://swccd.edu)

# Contact information

Thank you!

**Mardi Walters, Ed.D. (she/her)**  
**Employee Relations and Title IX Coordinator**  
**SOUTHWESTERN COMMUNITY COLLEGE DISTRICT**  
900 Otay Lakes Road | Chula Vista, CA 91910  
Office: 619.482.6329  
Email: [mwalters2@swccd.edu](mailto:mwalters2@swccd.edu)  
Office email: [swcertix@swccd.edu](mailto:swcertix@swccd.edu)  
[Title IX & Campus SaVE Act \(swccd.edu\)](https://www.swccd.edu/title-ix/campus-save-act)