

WEBINAR | AUGUST 2026

Protecting Every Student: Title IX, UCP, and the Evolving Legal Landscape for K-12 Discrimination and Harassment Claims

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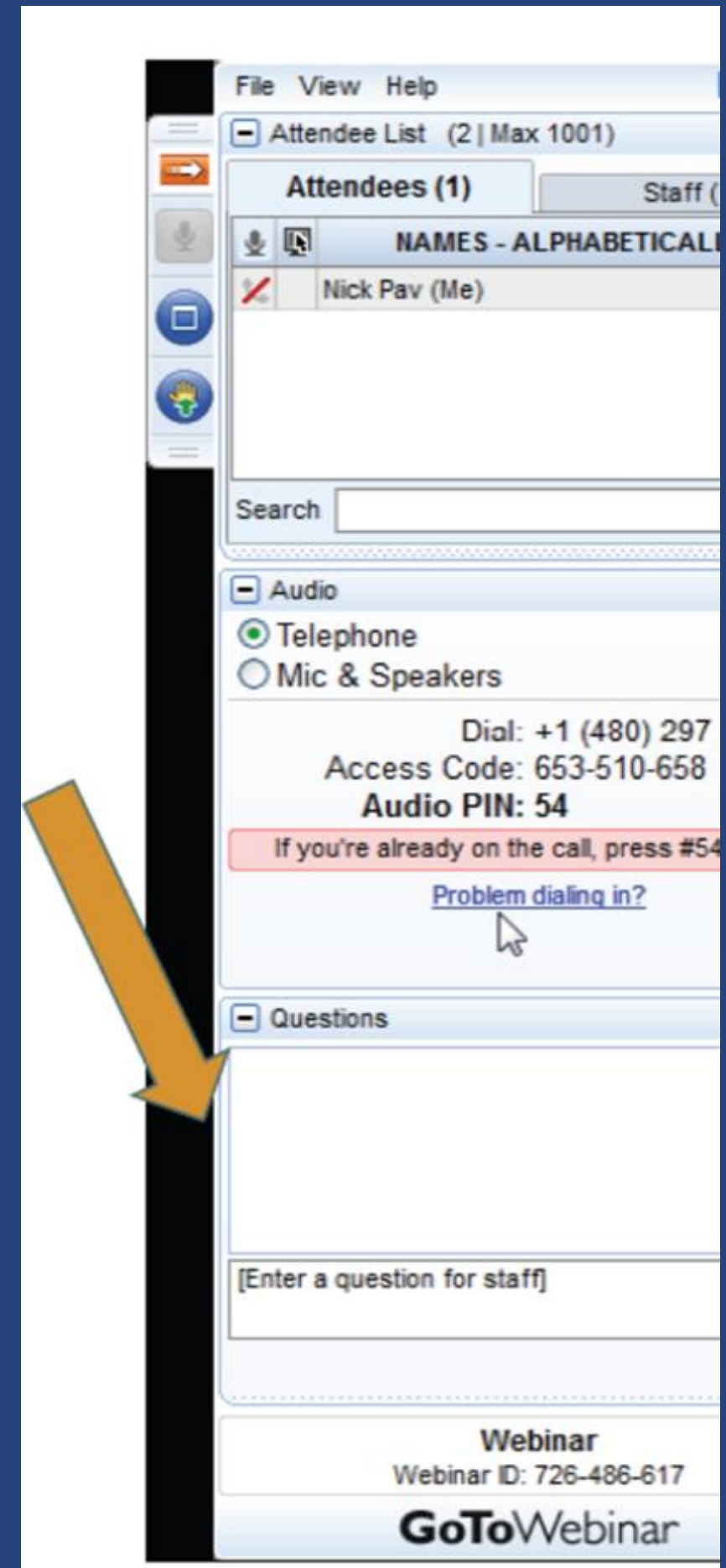




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Protecting Every Student: Title IX, UCP, and the Evolving Legal Landscape for K-12 Discrimination and Harassment Claims

Public Counsel – Education Equity

Presentation to Alliance for Children's Rights

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Agenda

- I. Introduction to Public Counsel
- II. Protections Against Discrimination and Harassment at School
 - a. Title IX in K-12
 - i. What is Title IX?
 - ii. Current state of gender identity discrimination
 - iii. Title IX grievance procedures
 - iv. Supportive Measures and Accommodations
 - b. Uniform Complaint Procedures
 - i. What is UCP? State law alternative
 - ii. UCP's role in addressing gender identity discrimination
 - iii. UCP filing process
 - iv. Supportive Measures and Accommodations
 - c. Comparing Title IX and UCP
- III. Recent Court Developments

Mission & Vision

The Education Equity Project (EEP), which launched in 2025, works alongside students and their caregivers to amplify their voices, address violations of students' educational rights, and expand access to quality education.

We are working toward an education system that recognizes education as a human right and that honors the dignity of every student.



Overview of Services

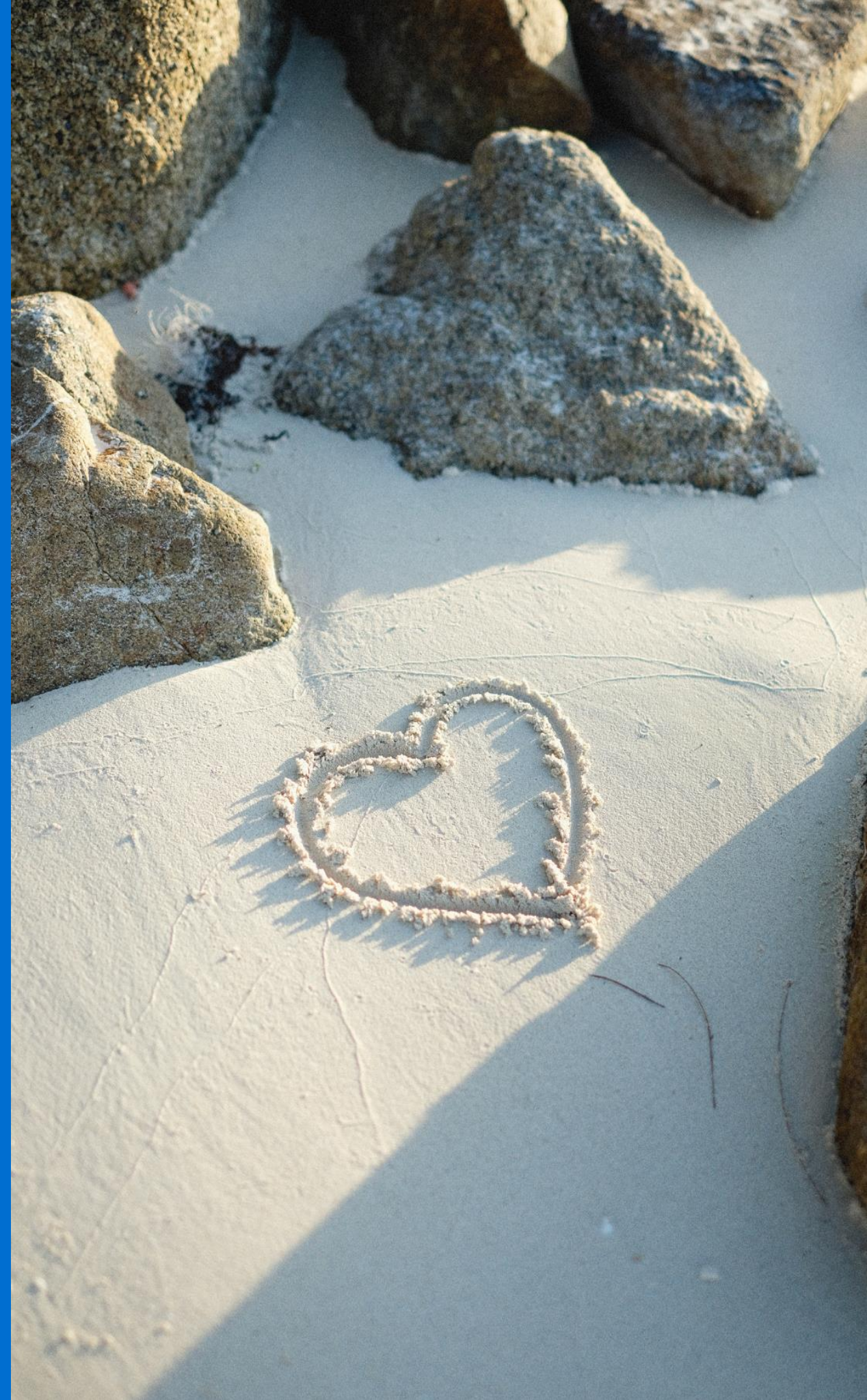
Direct Services	Systems Change	Education & Outreach
• Free counsel and advice • Advocacy and intervention with schools • Representation in administrative processes and litigation.	• Advocating for laws and policies • Engaging in strategic litigation that promote social, racial, and gender justice and support students and families.	• Empowering students by providing trainings about their rights 

Naming Trauma with Care

As we move through today's presentation, we want to remind you that your well-being matters.

Some of the topics we cover, such as discrimination, harassment, or gender-based violence, can bring up strong emotions or memories, and that's completely valid.

We encourage those with us today to take care of themselves, such as taking breaks during the presentation if you need to.



Sex vs. Gender

“Sex” – typically assigned at birth based on biological traits (chromosomes, genitals)	“Gender” – relates to societal/cultural expectations and personal expression <i>“Gender Identity”</i> <i>“Gender Expression”</i>
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Often “sex” and “gender” overlap and are used interchangeably when talking about legal protections and discriminatory behavior.

We strive to use inclusive language that encompasses the full spectrum of gender expression and identity.



Title IX in K-12



Federal Civil Rights

Title IX states:

“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.”

What does Title IX cover?



Title IX is a federal law that prohibits educational institutions receiving federal funding from discriminating on the basis of sex.

- Gender discrimination*

**No longer includes gender identity or gender expression under federal law*

- Sexual harassment and sexual assault
- Dating violence, stalking
- Denials of reasonable accommodations or discrimination related to pregnancy and lactation
- Equity in athletics

Changes to Federal Protections

- For a short time, Title IX regulations issued in 2024 expanded protections for complainants under Title IX.
- Numerous lawsuits were filed and the district court in *State of Tennessee v. Cardona* (January, 2025) vacated the 2024 regulations.
- Since January, 2025, many executive orders (EO), memoranda, and proclamations were issued.
 - EO purporting to redefine the term “sex” to male and female
 - Recission of EO preventing discrimination based on gender identity and sexual orientation
- Department of Education is enforcing 2020 Title IX regulations.

Changes to Federal Protections

2020 Title IX regulations

- do not explicitly protect against discrimination based on gender identity or sexual orientation
 - DOE not enforcing on this basis
 - Since Supreme Court decision in *Bostock v. Clayton* (2020), some district courts have interpreted Title IX to include sexual orientation and gender identity discrimination
 - *Bostock* interpreted Title VII prohibition on sex discrimination in employment to include discrimination based on sexual orientation and gender identity
 - Circuit split
- Sexual harassment defined as severe AND pervasive AND objectively offensive

Changes to Federal Protections

2020 Regulations

- Misconduct to have occurred within “education program or activity”
 - in K-12, programs include school events, athletics, clubs, classes, and field trips
- School must have actual knowledge
 - a school has obligations once an official with authority to institute corrective measures has actual knowledge of possible Title IX conduct

Title IX Harassment

- Quid Pro Quo Harassment
- Hostile environment:
unwelcome sex-based conduct determined by a reasonable person to be so **severe, pervasive, and objectively offensive** that it effectively denies a student equal access to the school's education program or activity
- Sexual assault, dating violence, domestic violence, or stalking
 - Conduct outside of the education program or activity or outside the United States would not be addressed
 - All other non-sex based harassment addressed through UCP

34 CFR Part 106.30

Sexual Harassment in California

Cal Ed Code 212.5:

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.**
- (d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Pregnancy Protections

What has not changed for Title IX?

Pregnant and parenting students are still protected under Title IX!

- Schools must offer services and benefits to students who are pregnant or have a related condition if they are offered to temporarily disabled students.
- A school cannot require a student who is pregnant or has a related condition to get a doctor's approval to participate in a school program or activity unless it is required of students with other physical or emotional conditions.

34 CFR § 106.40



Pregnancy Protections

Title IX	Education Code
Schools <u>cannot</u> discriminate against students based on <u>pregnancy or related conditions</u>. Related conditions include childbirth, termination of pregnancy, and recovery from any of these conditions.	Ed Code 221.51 prohibits discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery.
A pregnant student can participate in an <u>alternate program</u> if it is voluntary, and the program is comparable to those offered to their peers.	Ed Code 221.51(d) prohibits requiring a student to participate in a pregnant-minor program.

Pregnancy Protections

Title IX	Education Code
Schools must allow a leave of absence for pregnancy or related conditions for as long as a student's doctor deems medically necessary.	Up to 8 weeks of parental leave (but not required to take it so no mandatory removal from school), excused absences, makeup work, return to the same course of study, and potentially a fifth year of high school. Ed Code 46015(a).
Schools cannot apply a rule about a student's actual or potential parental, family, or marital status that treats them differently based on gender.	Pregnant and parenting pupils are protected. Ed Code 46015.
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Lactation under Title IX

Lactation Rights

“Lactation” is not explicitly mentioned as condition in the 2020 regulations.

- However, it has been defined by courts as a pregnancy-related condition since 2013.
- The 2020 rules do not explicitly mandate accommodations for lactating students or employees.



Lactation under the Education Code

Lactation Rights under the Education Code

Ed Code 222 expressly requires K-12 schools to provide reasonable accommodations to a lactating pupil.



- Private and secure room
- Permitted to bring a breast pump
- Access to a power source
- Reasonable amount of time to express milk or breastfeed
- Student cannot incur an academic penalty and must be given an opportunity to make up missed work.

Working with the Title IX Office: Key Terms

- Title IX Coordinator
- Complainant
- Respondent

Support

Advisor

Support Person



Student Rights

Right to:

- Prompt response to report
- Right to Supportive Measures Accommodations
- Access and understand the school's policies
- Prompt and equitable investigation
- Written Notice of Allegations
- Review and respond to evidence
- To appeal
- An advisor
- Be fully informed about the resolution of their case
- Be free from retaliation



K-12 Title IX Complaint Process

1. Written or oral report to Title IX Coordinator or any other available school employee
2. Title IX coordinator determines if allegation falls under Title IX jurisdiction
3. If complainant withdraws complaint, Title IX Coordinator may initiate an investigation after first notifying the complainant and addressing any safety concerns
4. Written notice of formal investigation to both parties (or informal resolution)
5. Investigation
6. Evidence review
7. Investigation Report
8. Written Decision
9. Appeal

→ No disciplinary action prior to a determination

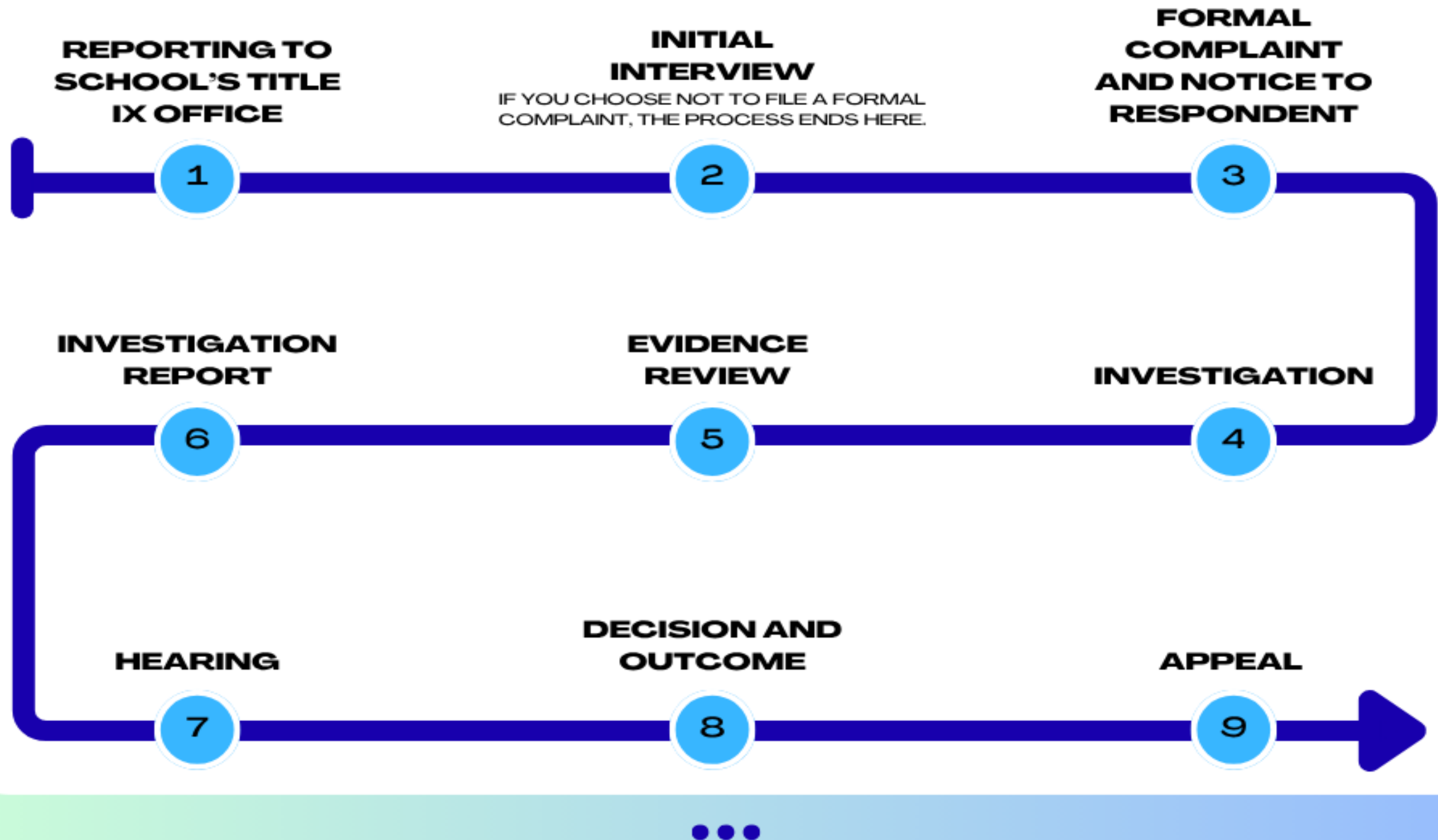


K-12 Evidentiary Standard

- Preponderance of evidence standard
(more likely true than not true)
- *Unless* recipient uses clear and convincing in other
discrimination complaint proceedings
(substantially more likely to be true than untrue)

TITLE IX PROCESS

A BRIEF OVERVIEW



K-12 Dismissal of Title IX Complaint

- Respondent is unidentifiable
- Respondent is not participating in the educational program or activities or is not employed by the district
- Complainant voluntarily withdraws some or all of the allegations
- The allegations, even if proven, would not violate Title IX

*Conduct may still be addressed pursuant to the Uniform Complaint Procedures

Interim Measures & Accommodations

- **Interim Measures**

- Example: No Contact Order

- **Reasonable Accommodations**

- Example: Academic

→ Note: without a finding of policy violation, cannot unreasonably burden Respondent

→ Regardless of whether a formal complaint is filed

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K-12 Title IX Supportive Measures

- Nondisciplinary, nonpunitive, and designed to restore or preserve equal access.
- Student may be removed if there is an immediate or serious threat to the health or safety of complainant or any students or employees.
- If student has a disability, Title IX Coordinator will coordinate with the Individualized Education Program (IEP) or 504 team.

K-12 Appeal

- Grounds:
 - Procedural irregularity
 - New evidence
 - Conflict of interest or bias by the Title IX coordinator, investigator, or decision-maker
- Filed within 10 calendar days of notice
- Written decision within 20 calendar days of the appeal

K-12 Disciplinary Actions

For students grades 4-12:

- Transfer from a class or school
- Parent/guardian conference
- Education of the student
- Positive behavior support
- Referral of the student to a student success team
- Denial of participation in extracurricular activities
- Suspension and/or expulsion

Mandatory Expulsion Hearing

California Education Code § 48915(c)

- Mandatory expulsion recommended by superintendent or principal for sexual assault or battery
- Expulsion hearing

Hypothetical: Maya's Story

Maya (she/her) is a 7th grade student who was sexually harassed by a classmate during an after-school club activity. The harassment included unwanted touching and sexual comments. Maya told her English teacher, who reported to the Title IX Coordinator. Maya has been unable to focus in class and her grades are dropping.

- A. Does Title IX apply here?
- B. What options does Maya have?
- C. Can she seek accommodations before the investigation concludes?

Discussion:

Maya's Story

Maya (she/her) is a 7th grade student who was sexually harassed by a classmate during an after-school club activity. The harassment included unwanted touching and sexual comments. Maya told her English teacher, who reported to the Title IX Coordinator. Maya has been unable to focus in class and her grades are dropping.

A. Does Title IX apply?

Yes, sexual harassment during school-sponsored activity is within Title IX's jurisdiction. Conduct is unwelcome and sex-based.

B. What options does Maya have?

Formal investigation or informal resolution. She can also request supportive measures immediately.

C. Can she seek accommodations before the investigation concludes?

Yes – supportive measures (academic accommodations, no-contact order, schedule changes) available regardless of formal complaint. If Maya has a disability, explore 504 plan / IEP.

UCP Complaint: Discrimination & Harassment



California's Broader Protection: Ed Code § 220

- Prohibits discrimination based on multiple characteristics in any program or activity conducted by schools receiving state funding
- Protected Categories:
 - Race, color, ancestry, national origin
 - Sex, gender identity or expression, sexual orientation
 - Disability, religion, age
 - Marital or parental status
 - Immigration Status
 - Intersectionality

California's Broader Protection: Ed Code § 201

All pupils have the right to participate fully in the educational process, free from discrimination and harassment. California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

Non-Title IX in K-12

Safe Place to Learn Act

(Education Code 234.1 and Penal Code 422.55)

School districts must adopt a policy that prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics of immigration status, disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group within one or more of these actual or perceived characteristics, including hate crimes similarly defined.

Eligibility to File a UCP Complaint

- A student/district discriminated against a student based on protected characteristic
- Note: Civil rights discrimination is just one reason to file a UCP complaint. You can find additional grounds on the CDE website.

Relevant Legal Authority: Cal. Code Regs. Tit. 5 §§ 4600-4687; Cal. Educ. Code § 33315

Filing a UCP Complaint

1. Submit complaint to district via email or mail
2. Complaint must be submitted in writing & signed
3. Statute of Limitations: within 6 months of violation
4. District opens investigation and conducts interviews of students/employees
5. Issue a report and decision within 60 calendar days
6. District requires its staff to take action to fix issue if found out of compliance

Education Code 234.1

Support Available After UCP Investigation

- School, class, or seating change
- School or program reinstatement
- Services, like counseling or tutoring
- Accommodations, like extended time on tests or assignments
- Safety Interventions, like a no contact order or campus escort

- District training
- Policy/procedure changes
- Education record correction or expungement
- Leave of absence
- Supporting name/pronoun usage
- Gender inclusive facilities access
- Safe space designation
- CDE monitoring

Title IX or UCP?

AJ (they/them) is a high school student who is experiencing discrimination and harassment at school by their classmates based on their gender identity.

AJ confided in their English teacher who promised AJ that they would not report. The harassment has continued and now AJ would like advice on what kind of report to file.

A. Does Title IX apply here?

B. Or should AJ file a UCP complaint?

C. What other issues do you see based on this fact pattern?

Title IX or UCP?

AJ (they/them) is a high school student who is experiencing discrimination and harassment at school by their classmates based on their gender identity.

AJ confided in their English teacher who promised AJ that they would not report. The harassment has continued and now AJ would like advice on what kind of report to file.

Does Title IX apply here?

Yes, Title IX applies since AJ is experiencing unwelcome sex-based conduct. But...school may utilize UCP process since the conduct is based on AJ's gender identity.

Should AJ file a UCP complaint?

Yes, AJ can file a UCP complaint because they are experiencing discrimination and harassment based on their sex which under California law includes a person's gender identity and expression.

AJ may want to file both Title IX and UCP complaints due to the time limits for the UCP complaints.

What other issues do you see based on this fact pattern?

The English teacher should not have promised that they would not report.

Appealing a UCP Decision

Grounds:

- District did not follow the UCP complaint procedures
 - Investigation was not thorough enough
 - The legal violation is not supported by the facts
 - Conclusions are not supported by evidence or are inconsistent with the law
 - Action steps do not fix the problem
-
- Submit an appeal to CDE within 30 days of investigation report
 - CDE must issue a written decision within 60 days
 - Extensions may be granted.
 - Either party may request consideration within 30 days of the CDE's appeal decision, and the Superintendent must respond within 60 days

CDE's Enforcement Authority

- CDE's decision on UCP appeals can include corrective measures for the local education agency (LEA)
- If the LEA refuses to comply with those measures, the CDE has authority to use “any means authorized by law to effect compliance”
 - This includes proceeding in a court for an order to compel compliance (Writ of Mandate)
- Suing a school district is rare, but the CDE does have power to do so in order to ensure compliance

Case Study: Rocklin Unified School District

- In 2023, the CDE received a complaint that alleged Rocklin Unified School District (RUSD) had a forced outing policy
 - The policy required schools to notify parents if their children requested to be identified as a different gender, to use a different name or pronouns, or to use a bathroom different to the gender assigned at birth.
- The CDE issued an investigative report that found the policy was discriminatory and a violation of students' right to privacy.
 - RUSD was required within 5 days of receipt of the report to alert all members of the district that the policy was unlawful and to cease its implementation.
- In 2024, the CDE sought enforcement of this corrective measure in court after RUSD failed to comply.

Direct Complainants to the CDE

Under certain exceptions, a complaint can be directly filed with the CDE:

1. LEA failed to comply with UCP complaint procedures, like refusing to cooperate with the investigation
2. Complainant requests anonymity due to danger of retaliation and immediate and irreparable harm
3. LEA failed to or refused to implement final investigation report or CDE appeal decision
4. LEA failed to take action within 60 days of complaint being filed, through no fault of the complainant
5. Complainant would suffer immediate and irreparable harm of district-wide policy that is in conflict with state or federal law

Title IX vs. UCP: Side-by-Side

Feature	Title IX	UCP
Standard	Severe AND pervasive AND objectively offensive	Discrimination, harassment, intimidation, or bullying
Filing Deadline	No federal statute of limitations	6 months (+ 90-day extension)
Decision Timeline	"Reasonably prompt"	60 calendar days
Appeal	Within school (10 days)	To CDE (30 days)
Gender Identity	NOT currently covered	Explicitly covered
Enforcement	DOE OCR; private right of action	CDE; writ of mandate

Evolving Legal Landscape

Instruction & Curriculum

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POLITICS

Supreme Court sides with parents who objected to kids' books on gender identity, sexuality

By Melissa Guinn

Updated on: June 27, 2025 / 4:04 PM EDT / CBS News



Supreme Court sides with parents on objection to kids' books on gender...

Washington – The Supreme Court on Friday ruled in favor of a group of Maryland parents who challenged their school district's decision to deny them the ability to opt their elementary-aged children out of instruction featuring storybooks that address gender identity and sexual orientation.

The high court said in a 6-3 decision in the case of *Mahmoud v. Taylor* that the government burdens parents' religious exercise when it requires their children

Access to Inclusive Curriculum – State

California requires inclusive instructional materials and curriculum

- School boards are prohibited from banning books, instructional materials, or curricula that includes diverse and inclusive perspectives (Ed Code § 243).
- Instruction in social sciences shall include “people of all genders, Native Americans, African Americans, Latino Americans, Asian Americans, Pacific Islanders, European Americans, LGBTQ+ Americans, persons with disabilities” (Ed Code § 51204)
- Mandates comprehensive sexual health education and HIV prevention education for 7-12 grades (Ed Code § 51930-39)
- Mandates instructional materials that accurately portray the cultural and racial diversity of our society (Ed Code § 60040)
- Prohibits the adoption of instructional materials that adversely reflect individuals based on race, color, creed, national origin, ancestry, sex, sexual orientation, religion, disability, nationality, or occupation (Ed Code § 51501)

Access to LGBTQ+ Curriculum – Federal

- Previously, other circuits had ruled that schools were allowed to include LGBTQ+ inclusive curriculum in their schools
- Supreme Court: *Mahmoud v. Taylor* (July 2025)
 - In this case, several parents filed a lawsuit against Montgomery County over lack of notice and opt-out when schools were using LGBTQ+ inclusive books in elementary school instruction.
 - The Supreme Court found that by denying the parents notice and opt out measures, the County was impermissibly burdening the parents' right to free exercise of religion.

Mahmoud v. Taylor Holding

- Supreme Court held: Schools must notify parents of religious opt-out rights AND permit opt-outs if instruction:
 - Poses a "very real threat of undermining" sincerely held religious beliefs, AND
 - Substantially interferes with the religious development of their children
- **Impact on California:**
 - Antidiscrimination laws remain fully in effect
 - Does NOT require censorship of library/classroom books
 - Does NOT impact students' rights to be themselves, discuss LGBTQ+ issues, or form clubs
 - Schools MUST allow qualifying religious opt-outs

Mahmoud requires accommodation of religious objections to specific instruction — it does not dismantle inclusive education.

Outing Policies

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K-12 EDUCATION

California bans schools from forcing teachers to 'out' LGBTQ students



BY CAROLYN JONES

DECEMBER 23, 2024

Republish



Outing Policies - State

- AB 1955 – SAFETY Act/Ed Code 220.5
 - Prohibits schools from disclosing a student's sexual orientation, gender identity, or gender expression without their consent
 - Passed to override policies passed by individual CA school districts that required staff to notify parents when children used different names or pronouns at school

Mirabelli v. Olson / Mirabelli v. Bonta

- Federal lawsuit on behalf of teachers and parents bringing free speech, free exercise, and due process claims to challenge California laws protecting trans and gender nonconforming students.
 - Oct. 2025: District court grants class-wide permanent injunction
 - Dec. 2025: Ninth Circuit stays the injunction pending appeal
 - **Mar. 2, 2026: Supreme Court per curiam order partially vacates stay — as to parent plaintiffs only**
- Result: District court order in effect for parent claims; stayed for teacher claims

What Mirabelli means now...

- California law still requires schools affirm students' gender identity.
- SAFETY Act is still in effect.
- Schools must still comply with California's LGBTQ+ competency training requirements.

Protections for Trans Student Athletes

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THE SACRAMENTO BEE

Part of the McClatchy Media Network

News Sports Politics Restaurants Opinion

CAPITOL ALERT

California will not block trans athletes from school sports, defying White House

By Lia Russell

UPDATED JULY 9, 2025 12:04 PM



Protections for Trans Student Athletes

- Nationwide increase in legislation targeting transgender people and youth
 - Currently, 27 states have a law or regulation that prevents trans girls and women from participating in sports based on their gender identity; only some of those states also extend the ban to trans boys and men
 - Some states have no explicit bans or explicit protections – California is a state with explicit protections for trans student athletes
- AB 1266 – California’s School Success and Opportunity Act – 2013 law that protected the ability of trans students to participate in activities, programs, and sports that align with their gender identity
- Has been the law for over 10 years



Supreme Court: West Virginia v. BPJ & Little v. Hecox

- B.P.J.: transgender girl in West Virginia;
Hecox: transgender woman in Idaho
- Decided: June 30, 2026 (consolidated)
- **Holding: States may maintain female sports teams based on biological sex, finding that such eligibility rules do not violate Title IX or the Equal Protection Clause**
- Court upheld state laws (West Virginia and Idaho) separating sports participation by biological sex

Impact of B.P.J. / Hecox in California

The decision is PERMISSIVE, not MANDATORY — states CAN restrict but do not have to.

- California's AB 1266 remains valid state law — it is not preempted.
- California can continue to allow transgender students to participate consistent with gender identity.
- Does NOT address bathrooms, locker rooms, name/pronoun policies, or other gender identity in schools, but...

Additional Resources

I. Public Counsel's Title IX Handbook

II. [Equal Rights Advocates](#) (ERA) – ERA is a national organization that focuses on gender justice in the workplace and schools.

A. Their [Student Survivor Toolkit](#) is an incredibly powerful resource that offers specific strategies for managing your mental health, as well as identity specific advice for LGBTQ and Muslim students.

III. [Victim Rights Law Center](#) (VRLC) – VRLC is a nonprofit based in Massachusetts. Their [resource library](#) includes recorded webinars and state-specific guidance on Title IX proceedings.

Title IX

College and graduate students who experienced sexual violence, sexual harassment, or sex discrimination

- **Counsel and advice**
- **Assist with seeking supportive measures and accommodations**
- **Serve as advisor during Title IX process**
 - Drafting complaint
 - Accompany to interviews
 - Evidence review
 - Hearing
 - Appeal



Anti-Discrimination & Anti-Harassment

Students in K-12 and higher education who experienced discrimination and/or harassment based on a protected characteristic.

- **Counsel and advice**
- **Help filing administrative complaints with the school district and/or California Department of Education**



Are you in need of services?

Reach out to the Education Equity Project!

The Education Equity Project provides free legal services in areas such as Title IX for California college students and college community members who have experienced sexual violence, harassment, gender discrimination, or were denied accommodations.

Use the QR code or link to apply for services or leave us a voicemail with your name and contact information.

Scan the QR code or use this link:

https://bit.ly/ca_tix_wj

Call 213-385-2977 ext. 410



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Questions or Comments?

Thank you!

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