

WEBINAR | APRIL 2025

# What Can Students Count On in 2025? An Overview of Students' Rights Under Federal and California Law

ALLIANCE  
*for* CHILDREN'S  
RIGHTS

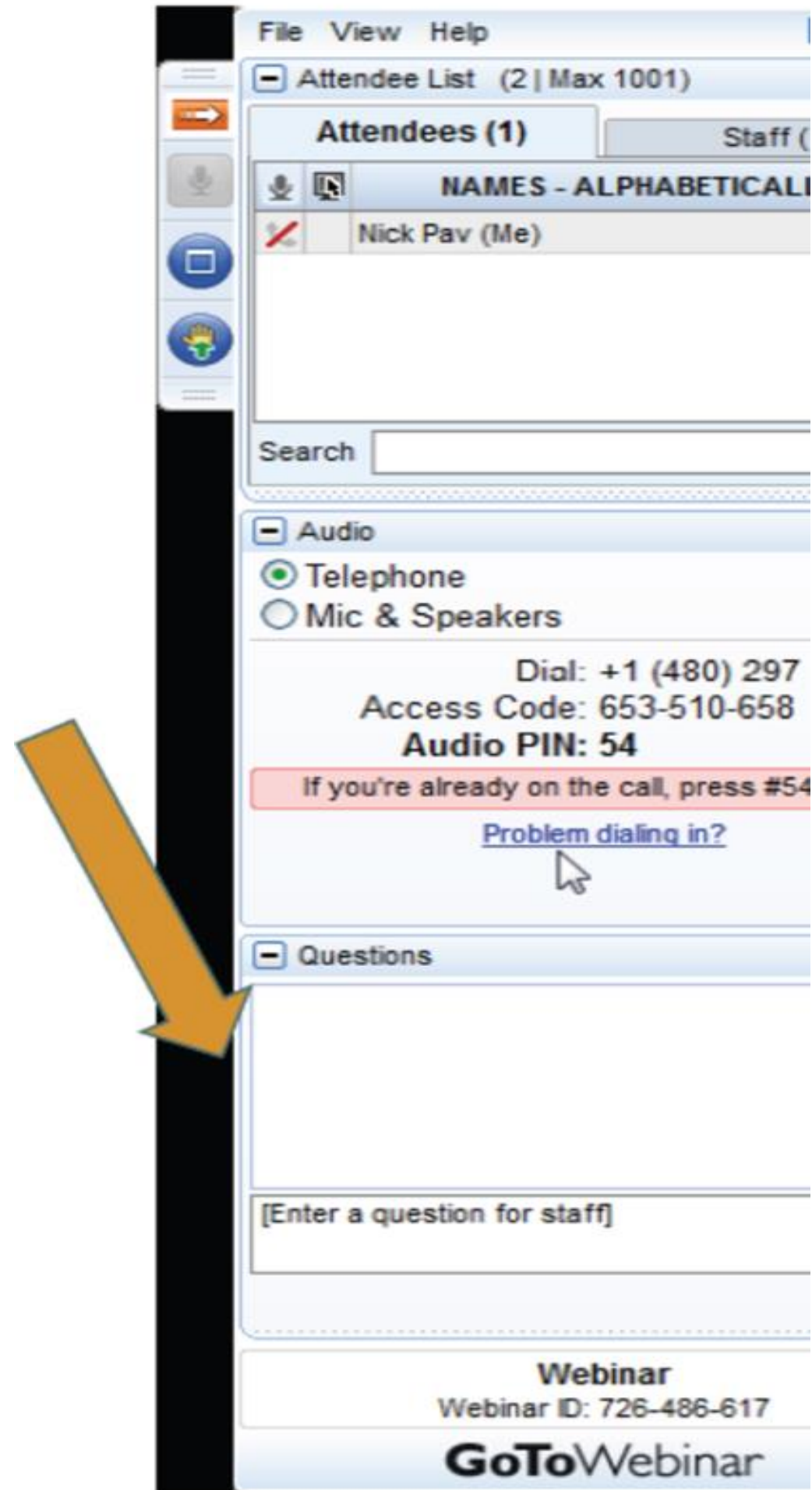
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Counsel 





# Logistics

- Webinar resources, including recording and supplemental materials, will be posted at <https://allianceforchildrensrights.org/resources/>
- All attendees are muted during webinar.
- Please submit questions using the “Questions” function on your GoToWebinar dashboard.





# **WHAT CAN STUDENTS COUNT ON IN 2025?**

## **STUDENT RIGHTS UNDER FEDERAL AND CALIFORNIA LAW**

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**April 2025**

**AUDREY IRMAS  
GENDER  
JUSTICE  
PROJECT**

**Public  
Counsel** 



# Legal Disclaimer

This presentation has been prepared by Public Counsel for informational purposes only. The material discussed during this presentation should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

# ABOUT GJP

## Workplace Rights

Defending the rights of low-wage workers to a safe and fair work environment free from exploitation, discrimination, and harassment.

## Direct Services

Free counsel and advice; advocacy and intervention with employers and schools; representation in administrative processes and litigation.

## Advocacy

Advocating for laws and policies that promote social, racial, and gender justice and support working families.

## Education & Outreach

Empowering workers and students with information about their rights.





# AGENDA

- **Trauma Informed Approach**
- **Title IX**
  - **General**
  - **Gender Identity**
  - **Pregnancy and lactation**
  - **Harassment**
  - **Enforcement**
- **State Remedies**



# Sex Versus Gender

**“Sex” is typically assigned at birth based on biological traits. It has to do with chromosomes and the genitals someone is born with.**

**“Gender” is far more expansive and fluid. It relates to societal and cultural expectations, as well as personal expression.**

**“Gender Identity”**

**“Gender Expression”**

**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.**



# Tough Topics

*Some of the topics we are about to discuss include themes of violence and may be difficult for some of us to confront today.*

*We encourage you to take care of yourself today and always. Please feel free to step away if you need to.*





# TRAUMA INFORMED APPROACH

- Acknowledgment of the impact trauma may have on client interactions within the legal process and navigating it with sensitivity, mindfulness, and support.
- Commitment to restore a sense of safety, trust and transparency, and empowerment for clients through our policies and practices.
- Public Counsel leads with client-centered and holistic services ensuring collaboration, choice, peer support, clear boundaries, compassion, and acceptance with clients.
- Services include:
  - Centering clients' goals
  - Referrals to resources such as housing, food employment, and mental health services
  - Social work support

# Discussing Trauma

- **Defining Trauma**
- **Types of Trauma**
- **The Impact Trauma has on Client Interactions**
- **Window of Tolerance**
- **Trauma Informed Approach in Client Representation**





# Six Principles of Trauma-Informed Care

- **Safety:** Physical, emotional, and psychological safety
- **Trustworthiness and Transparency:** Open communication, building relationships, and confidentiality
- **Peer Support:** Peer connections and shared experiences provide support and solidarity
- **Collaboration and Mutuality:** Client-centered, self- determination, and skill building
- **Empowerment, Voice, and Choice:** Partnerships, shared decision- making, and mutual respect
- **Cultural, Historical, and Gender Sensitivity:** Cultural competence, historical trauma, and gender sensitivity

# Shifting the Perspective

## Deficit Model

What's wrong with you?

I am the expert

Doing for people

## Trauma Informed Model

What happened to you?

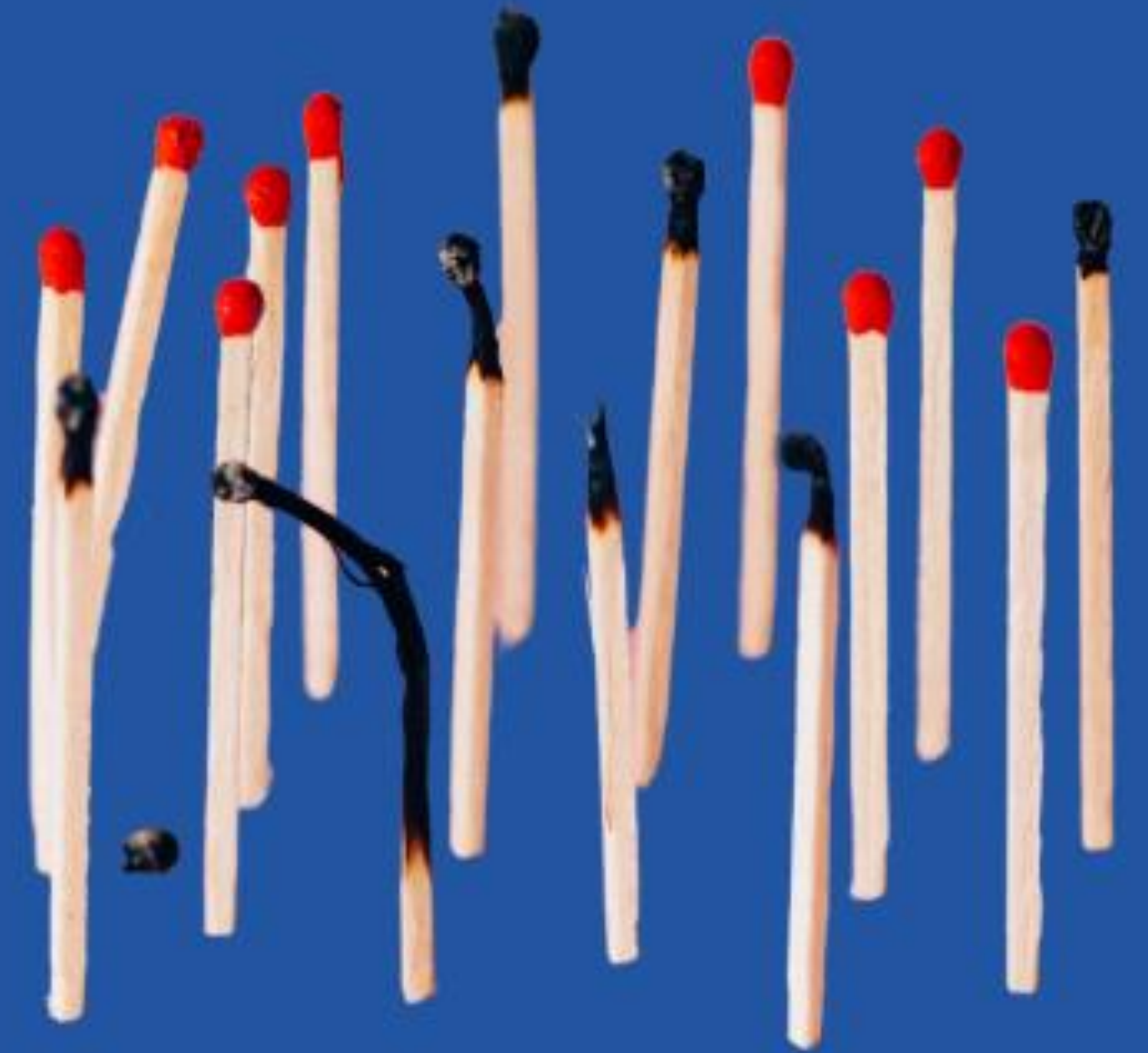
People are experts of their lives

Doing with people



# How Trauma Impacts Us

- **Compassion Fatigue**
- **Secondary Trauma**
- **Burnout**



# Self- & Community Care

## Defining Self-Care

- Examples:
  - Physical
  - Emotional & Mental
  - Managing Stress

## Defining Community Care

- Examples:
  - Mental Health Resources
  - Peer Support
  - Academic Advising

Self and community care can be preventatives and ways to addressing compassion fatigue, secondary trauma, and burnout







# **Title IX Rights on Campus**

## **Title IX simply 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.”



# Title IX is a federal civil right.



Applies to:

- private and public schools
- K-12 as well as higher education
- students, staff members and faculty
- any one on campus
- school property

Sex-based discrimination and harassment:

interferes with or limits “a student's ability to participate in or benefit from school.”

## What Does Title IX Cover?

- Discrimination based on sex or gender
- Sexual harassment and sexual violence
- Pregnancy and parenting rights
- Equity in athletics

*\*used to cover gender identity and gender expression*



# Examples of sex-based discrimination

**Harassment or bullying because of gender identity or sexual orientation**

**Gender-based name calling to try to offend another**

**Sexual Assault**

**Any sexual or sex-based conduct that creates a hostile environment**



# Title IX History

## EDUCATION

- **Title IX created in 1972**
- **Initially used in the 1980s regarding athletics**

**1972**

**2011**

- **Dear Colleague Letter**



# What do we know about sexual violence in education?



## Sexual assaults in college

- 1 in 5 female students
- 1 in 16 male students
- Nearly 25% of transgender, nonbinary or otherwise gender nonconforming

<https://www.nsvrc.org/resource/2500/national-intimate-partner-and-sexual-violence-survey-2015-data-brief-updated-release>

## Reports

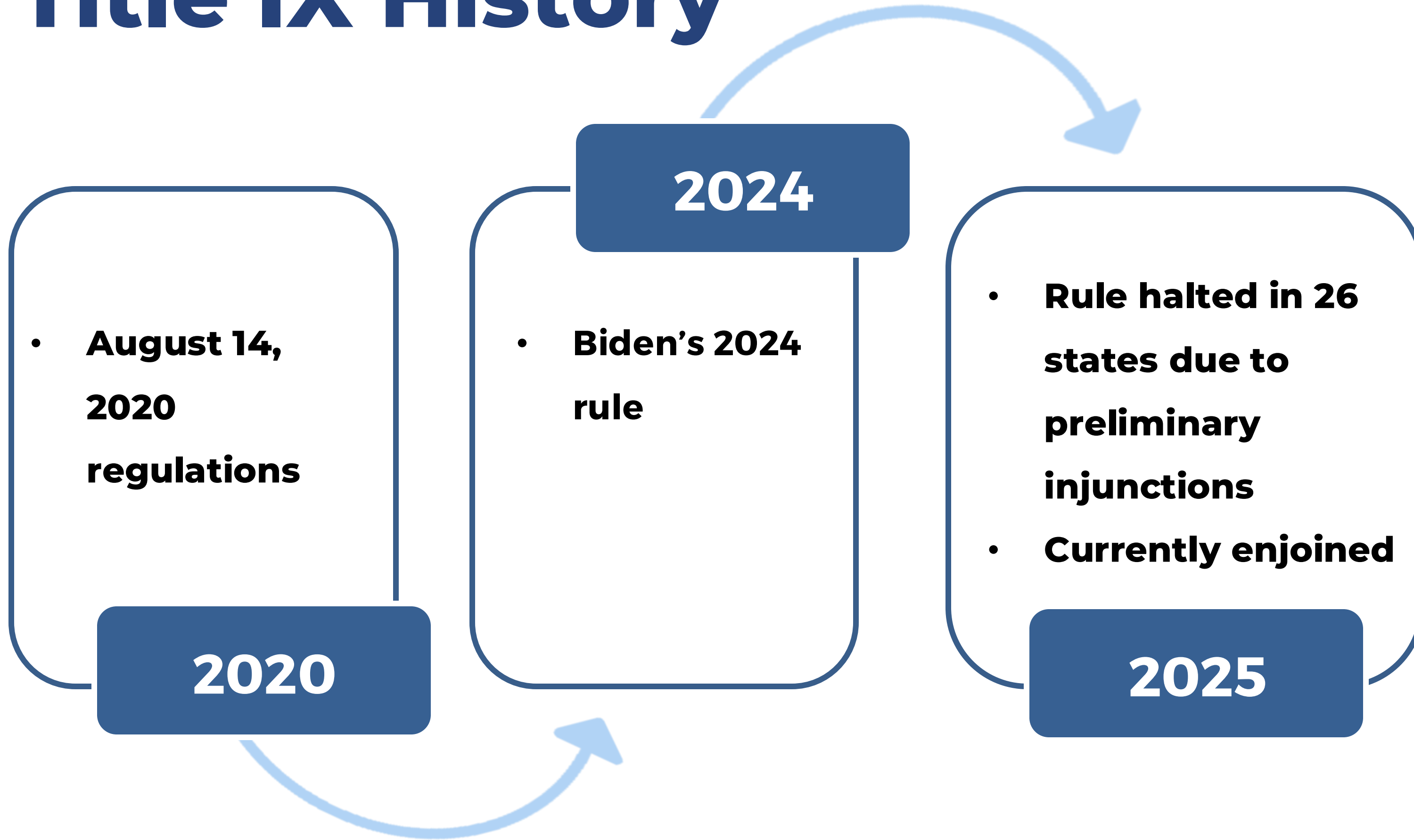
- Only one-third report

## Discipline

- 1 in every 12,400 suspended
- 1 in 22,900 expelled

<https://www.usatoday.com/in-depth/news/investigations/2022/11/16/title-ix-campus-rape-colleges-sexual-misconduct-expel-suspend/7938853001/>

# Title IX History





# State of Tennessee v. Miguel Cardona

**No. 2: 24-072-DCR (E.D. Ky. Jan 9, 2025)**

January 9, 2025 decision

- Because of *Loper Bright Enterprises v. Raimondo*, and new court authority, this court could decide if the government agency has acted within its authority
  - Court decided regulations were in excess of statutory authority
  - Fully vacated regulations via vacatur
- Applies nationwide and returns Title IX to its 2020 regulations.



# State of Tennessee v. Miguel Cardona

**No. 2: 24-072-DCR (E.D. Ky. Jan 9, 2025)**

January 9, 2025 decision

- Declined to extend 2020 *Bostock v. Clayton County*, a Title VII case, that discrimination on the basis of sexual orientation and gender identity is sex discrimination.





# Title IX and Gender Identity

- *Cardona* decision held Title IX cannot be used to prohibit discrimination based on gender identity.
- Framework for enforcing Title IX regulations is 2020 Title IX rule
  - 2020 regulations did not explicitly address sexual orientation, but there is relevant case law.
- Fourth, Seventh, and Ninth Circuits courts found that sex discrimination under Title IX includes discrimination on the basis of sexual orientation, gender identity, or both.

# Gender Identity Harassment

Tina (they/them) is a transgender student and employed as a teaching assistant at a college. Students are using Tina's dead name and purposefully misgendering them (using incorrect pronouns).

Is this sexual harassment?

- Does Tina have a claim for harassment based on gender identity under Title VII?
- Does Tina have a claim for harassment based on gender identity under Title IX?



Tina (they/them) is a transgender student and employed as a teaching assistant at a college. Students are using Tina's dead name and purposefully misgendering them (using incorrect pronouns).

Is this sexual harassment?

Yes, sexual harassment includes verbal harassment such as calling people names. They are experiencing discrimination and harassment based on their gender identity (if severe and pervasive).

Does Tina have a claim for harassment based on gender identity under Title VII?

Yes, as an employee, Tina may have a claim for discrimination based on gender identity under Title VII.

Does Tina have a claim for harassment based on gender identity under Title IX?

Tina may not file a Title IX claim for discrimination based on gender identity. But they may have other remedies under the Education code and other codes in California.

# Title IX and Pregnancy

## Pregnant and Parenting Students are still protected under Title IX!

- The Biden Administration's 2024 rules had *updated existing* protections for pregnant and parenting students and employees
  - strengthening reasonable accommodation requests, including notice requirements, and clarifying prohibition on treating parents differently
- *Cardona* decision did not address the 2024 protections for pregnant and parenting students
- The 2020 rules do not include specific medical conditions related to pregnancy, require reasonable accommodations similar to students with disabilities, and do not include notice requirements.

# Title IX and Pregnancy

Protections under the 2020 rules (as a baseline):

- **Discrimination:** Schools cannot discriminate against students based on pregnancy or related conditions. Related conditions include childbirth, termination of pregnancy, and recovery from any of these conditions.
- **Participation:** A pregnant student can participate in an alternate program if it is voluntary, and the program is comparable to those offered to their peers. 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.





# Title IX and Pregnancy

Protections under the 2020 rules (as a baseline):

- **Leave of Absence:** Schools must allow a leave of absence for pregnancy or related conditions for as long as a student's doctor deems medically necessary.
- **Accommodations:** Schools must offer services and benefits to students who are pregnant or have a related condition if they are offered to temporarily disabled students.
- **Parents:** Schools cannot apply a rule about a student's actual or potential parental, family, or marital status that treats them differently based on gender.



# Title IX and Pregnancy

## 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.
- Contact Title IX Coordinator
  - California Education Code protections for K-12 schools, community colleges, and California State Universities.



# Title IX and Harassment

## Students may still file a complaint under Title IX

- Filed by a complainant or signed by a Title IX Coordinator.
- Alleging sexual harassment against a respondent:
  - Quid Pro Quo Harassment,
  - Denial of Equal access to education program,
  - Sexual acts.
- Requesting that the Title IX office investigate the allegation of sexual harassment.





# **Title IX and Harassment**

## **Sexual harassment under Title IX 2020 regulations**

- Narrow definition of sexual harassment -- Severe and pervasive conduct
- Location of assault
- Student status
- Direct, live cross-examination
- Supportive measures

# How schools can address sexual harassment

- Schools can use the 2020 Title IX Rule as a baseline.
- Schools can adopt a “non-Title IX sexual harassment” policy that’s more robust than 2020 Title IX Rule
  - Can define sexual harassment there as “unwelcome conduct of a sexual nature.”
- Schools can adopt a “non-Title IX sex discrimination” policy that is more robust than 2020 Title IX rule (like additional protections against pregnancy discrimination).



# Clery Act

**Federal law that requires post secondary schools receiving federal financial aid to report crimes on or near campus**

- **Mandatory reporting of crimes**
- **Specific procedures for sexual violence**

**Impact of loss of federal funds**

- **School would not be REQUIRED to follow Clery Act**

**California Education Code requires similar reporting**

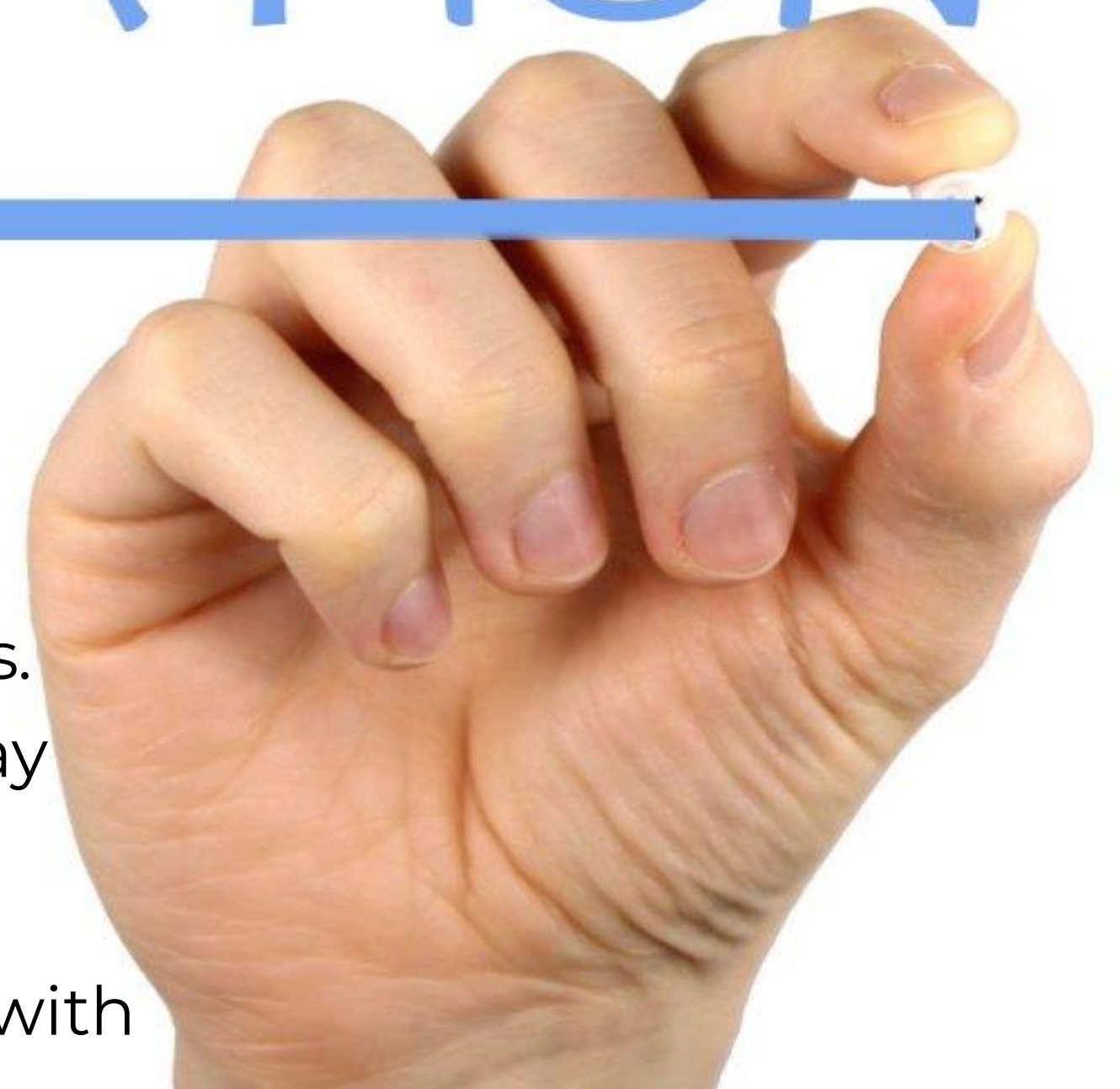
- **Sex Equity in Education Act**
- **Enforced by Department of Education (CDE)**



# LEGISLATION

## **Assembly Bill (AB) 933 (Aguiar-Curry and Ward) - Civil Code 47.1**

- Protects survivors of sexual assault, harassment, and discrimination from weaponized defamation lawsuits.
- Strengthens the legal protection of survivors who may face retaliatory defamation lawsuits from speaking publicly about their personal experiences.
- Harder for perpetrators to retaliate against survivors with legal threats and intimidation.
- Adds to privileged communications a communication made by an individual regarding an incident of sexual assault, harassment, or discrimination.
- **Effective January 1, 2024.**



# Sexual Harassment

Slate (she/her) experienced inappropriate comments, references to erotic behavior and attempts to kiss her from her co-worker, Theo (he/him). Slate sued Theo for sexual harassment. Theo alleged that Slate acted with malice and countersued for \$400 million for extortion and defamation.

Is this sexual harassment?

- Does Slate have any defenses to the countersuit for extortion and defamation?

Slate (she/her) experienced inappropriate comments, references to erotic behavior and attempts to kiss her from her co-worker, Theo (he/him). Slate sued Theo for sexual harassment. Theo alleged that Slate acted with malice and countersued for \$400 million for extortion and defamation.

Is this sexual harassment?

Yes, comments may qualify as sexual harassment.

Does Slate have any defenses to the countersuit for extortion and defamation?

Assembly Bill 933 grants legal protection to individuals who make statements about harassment, assault or discrimination, shielding them from defamation claims unless they acted with actual malice.



# **Enforcement of Title IX rights**

## Reporting and Investigation

If there has been a violation of Title IX, report to the Title IX Coordinator.

You can request an investigation.

During an investigation, you can bring an advisor.



# **Additional Protections Outside of Title IX**

# California Protections

Enforced by California Department of Education (CDE) through Uniform Complaint Process (UCP)

K-12	Legislation	Post-secondary
Ed Code 220	Prohibits schools from discriminating based on disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes	Ed Code 66270
Ed Code 221.5	Explicit provisions for access to sex-separate facilities and activities	
Ed Code 243	School boards prohibited from banning books, instructional materials, or curricula that includes diverse and inclusive perspectives	
Ed Code 35292.5	Most schools teaching 1-12 must provide at least one all-gender restroom for student use by July 1, 2026	



# California Protections

Enforced by California Department of Education (CDE) through Uniform Complaint Process (UCP)

K-12	Legislation	Post-secondary
Ed Code 222	Reasonable accommodations shall be provided to lactating pupils on a school campus to express breast milk, breast-feed an infant, or address other needs including: access to a private and secure room (not a restroom), bring equipment to express milk on a school campus, access to a power source, and access to a place to store expressed breast milk safely.	
Ed Code 46015	Pregnant or parenting pupil entitled to eight weeks of parental leave.	
	(a) All persons regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. Prohibition against sexual harassment as a form of sexual discrimination. (b) Each postsecondary institution shall have a written policy on sexual harassment.	Ed Code 66281.5

# Student Rights Under California Law

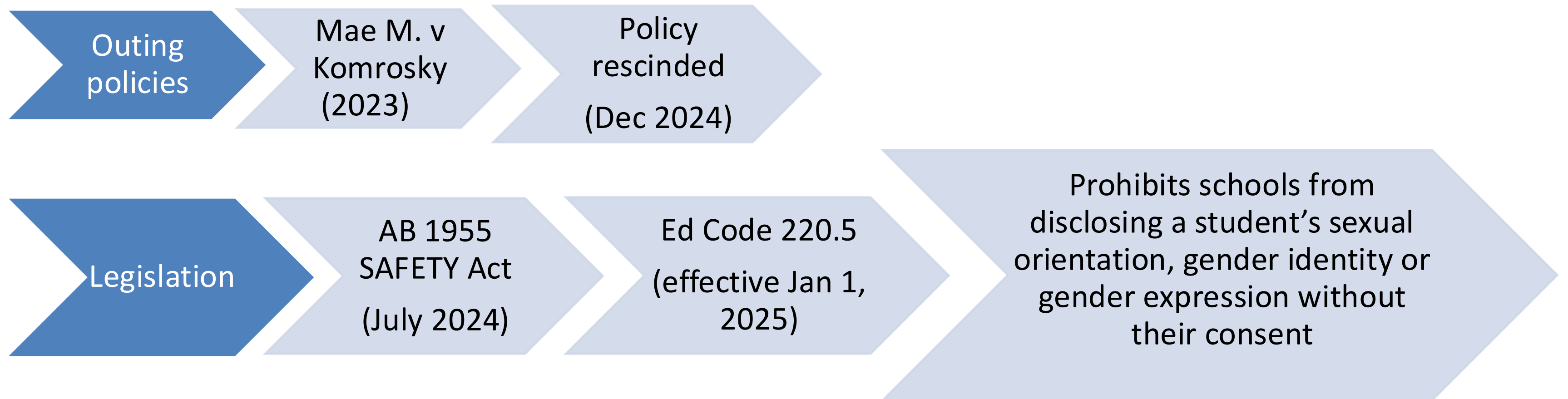
**Right to be treated according to gender identity and by the names/pronouns that match gender identity**

**Right to use restrooms and locker rooms that match gender identity**

**Right to report to school  
or  
file a complaint**



# California Outing Policies





# AB 1955 Litigation

- **State of California v. Chino Valley Unified School District (2023)**: Final ruling permanently halts enforcement of the Policy's provisions that require a mandatory gender identity disclosure to parents.
- **Mirabelli v. Olson (S.D. 2023)**: Judge granted a preliminary injunction motion to block the school district from enforcing the policy. The case is moving forward to determine the constitutionality of the policy.
- **Trump's U.S. Department of Education Investigation (March 2025)**: The Department of Education launched an investigation into the California Department of Education for alleged violations of FERPA relating to AB 1955.

# California Protections

Enforced by Civil Rights Department (CRD)

## Ralph Act

- Prohibits individuals from engaging in “violence or intimidation by threat of violence, committed against” a person or their property
- Speech can violate the act
- Statutory damages of \$25,000 per violation
- One year statute of limitations


## Unruh Act

- Prohibits discrimination in public accommodations
- Schools may not fall within but perhaps snack stands
- Statutory damages of \$4,000 per violation

## Gov. Code 11135

- Prohibits discrimination by an entity receiving state funds
- Remedies limited to injunctive relief

# LEGISLATION



## **Senate Bill (SB) 1137 (Smallwood-Cuevas)**

- Codifies the idea of intersectionality in three state antidiscrimination laws.
- Intersectionality – different forms of discrimination can create an amplified type of harm.
- Corrects the problems of the categorical nature of discrimination law.
- Explicit language that laws protect against discrimination in more than one category.
- Affirms District Court's ruling in *Lam v. University of Hawai'i* (9<sup>th</sup> Cir. 1994) 40 F.3d 1551.
- Effective January 1, 2025.



# How Can GJP Help?

- Provide counsel and advice
- Assist with Title IX process
  - Represent complainants
- Trauma informed support and language justice



# WEEKLY LEGAL ADVICE CLINIC

WEDNESDAYS FROM  
4:00PM TO 7:00PM



## WE CAN PROVIDE INFORMATION ON YOUR RIGHTS AND LEGAL OPTIONS REGARDING:

### WORKPLACE JUSTICE

- WORKPLACE DISCRIMINATION, HARASSMENT, OR ASSAULT AT WORK
- WRONGFUL TERMINATION, DENIAL OF WAGES, LEAVE, AND/OR OTHER EMPLOYMENT BENEFITS, AND GENERAL QUESTIONS

### TITLE IX IN HIGHER EDUCATION

- GENDER DISCRIMINATION SEXUAL OR GENDER-BASED HARASSMENT CAMPUS SEXUAL ASSAULT
- TITLE IX INVESTIGATIONS & PROCEEDINGS
- RIGHTS OF PREGNANT, PARENTING, AND CAREGIVING STUDENTS



**SCHEDULE APPOINTMENTS HERE:**  
[bit.ly/wgr-clinic-calendly](https://bit.ly/wgr-clinic-calendly)

If Calendly is fully booked  
**APPLY FOR SERVICES HERE:**  
[bit.ly/wgr-intake-ls](https://bit.ly/wgr-intake-ls)

**SCAN TO  
SIGN UP!**



*The Audrey Irmes Gender Justice Project (GJP) works toward the fair treatment of people of all genders and to empower people to fight sexual harassment and other abuse at work and at school*

**Call 213-385-2977 ext. 410 for more information**

# CLÍNICA DE CONSEJO LEGALES SEMANAL

CADA MIÉRCOLES  
DE 4:00 P.M. A 7:00 P.M.



## PODEMOS BRINDARLE INFORMACIÓN SOBRE SUS DERECHOS Y OPCIONES LEGALES CON RESPECTO A:

### JUSTICIA LABORAL

- DISCRIMINACIÓN, ACOSO O AGRESIÓN EN EL LUGAR DE TRABAJO
- DESPIDO INJUSTIFICADO, DENEGACIÓN DE SALARIOS, LICENCIAS Y/O OTROS BENEFICIOS LABORALES, Y PREGUNTAS GENERALES

### TÍTULO IX EN EL COLEGIO O UNIVERSIDAD

- DISCRIMINACIÓN DE GÉNERO ACOSO SEXUAL O POR MOTIVOS DE GÉNERO
- AGRESIONES SEXUALES EN EL CAMPUS
- INVESTIGACIONES Y PROCEDIMIENTOS DEL TÍTULO IX
- DERECHOS DE ESTUDIANTES EMBARAZADAS, PADRES Y CUIDADORES



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Si Calendly no tiene citas  
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**ESCANEA  
PARA  
REGISTRARSE!**



*El Proyecto de Justicia de Género Audrey Irmes (GJP, por sus siglas en inglés) trabaja para lograr un trato justo de las personas de todos los géneros y para empoderar a las personas para luchar contra el acoso sexual y otros abusos en el trabajo y en la escuela*

**Llama al 213-385-2977 ext. 410 para más información**



# Resources

## **Office for Civil Rights**

Title IX of the Education Amendments of 1972 20 U.S.C. §§ 1681-1688

Title IX Implementing Regulations 34 C.F.R. Part 106

Case Processing Manual <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

## **Articles**

Interagency Task Force on Sexual Violence in Education 90-Day Report (November 30, 2022)

<https://www2.ed.gov/about/offices/list/ope/vawa.pdf>

[‘Institutional betrayal’: Students voice dissatisfaction with UCLA Title IX Office - Daily Bruin](#)

Despite men’s rights claims, colleges expel few sexual misconduct offenders while survivors suffer

<https://www.usatoday.com/in-depth/news/investigations/2022/11/16/title-ix-campus-rape-colleges-sexual-misconduct-expel-suspend/7938853001/>

## **Clinic**

[www.tinyurl.com/wgrclinic](http://www.tinyurl.com/wgrclinic)



# Questions?

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# ALLIANCE *for* CHILDREN'S RIGHTS

STAY  
CONNECTED

[allianceforchildrensrights.org](https://allianceforchildrensrights.org)



THANK  
YOU



@allianceforchildrensrights