



Title IX

The definition of discrimination and harassment based on sex, including student rights

Title IX of the Educational Amendments Acts of 1972 is a federal law that 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.”

DISCRIMINATION AND HARASSMENT BASED ON GENDER, SEXUAL ORIENTATION OR PREGNANCY (TITLE IX)

Discrimination and harassing behavior based on gender, sexual orientation or pregnancy violate federal and/or state civil rights law and deny equal educational opportunities for all students. Discrimination may occur when an individual or individuals are treated differently specifically because of his/her/their gender, sexual orientation or pregnancy. Additionally, unintended behavior or action that ultimately results in treating a group differently

because of their gender, sexual orientation or pregnancy may be a form of gender discrimination. Other prohibited behaviors can include: making comments, name-calling, physical conduct or other expressive behavior directed at an individual or group on the basis of gender, sexual orientation or pregnancy.

Discriminatory and harassing behavior creates a demeaning, intimidating and hostile educational school environment. Title IX includes sexual harassment, sexual misconduct and sexual violence.

Discrimination/Harassment is considered to have occurred when such conduct:

- has the purpose or effect of creating an intimidating, hostile or offensive academic environment,
- has the purpose or effect of substantially or unreasonably interfering with a student's performance,
- otherwise adversely affects an individual's academic opportunities.

Individuals or groups may be in violation of this policy if they engage in the following behavior (not all inclusive) toward a student or any other individual on school grounds, at school-sanctioned activities or in vehicles dispatched by the district:

- making demeaning remarks directly or indirectly to an individual or group based upon his/her/their gender, sexual orientation or pregnancy,
- displaying suggestive visual or written material or defacing APS property or materials to demean an individual or group based upon gender, sexual orientation or pregnancy, staring, glaring, obscene

gestures, suggestive gestures (touching your private intimate parts in front of others), repeatedly asking someone out when he/she/they are not interested, or damaging, defacing or destroying private property.

SEXUAL HARASSMENT

Sexual harassment is a form of gender discrimination as defined in Title IX of the Education Amendments of 1972. Sexual harassment is a violation of federal and state law as well as district policy. Sexual harassment/bullying is a form of gender-based harassment that is considered a misuse of power.

Examples of possible sexual harassment are: unwelcome pressure for sexual activity; unwelcome, sexually motivated or inappropriate physical contact; unwelcome verbal or written words or symbols directed at an individual because of gender (whether that gender is the same as the harasser or aimed at the opposite sex); and use of authority to coerce sexual favors.

If behavior toward another student(s) makes him/her/they feel intimidated, uncomfortable or threatened, it may be considered sexual harassment even if the harasser did not intend for his/her/their actions to be offensive. This prohibition against sexual harassment applies whether the harassment is between people of the same or different gender.

Sexual harassment generally may fall under one of three categories: quid pro quo, hostile environment and retaliatory harassment.

Quid pro quo sexual harassment generally occurs when an individual explicitly or implicitly conditions another individual's participation in an activity or program or based a decision on the individual's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature, whether or not the individual submits to the conduct. This generally, but not always, involves a person in an authority position over a subordinate.

Hostile environment harassment generally occurs when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature by a student, employee or a third party are sufficiently severe, persistent or pervasive so as to limit the individual's ability to participate in or benefit from a program or activity of the district or to create a hostile or abusive educational environment.

Retaliatory harassment is when any adverse educational action is taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct. This may include retaliation against a reporting party by the responding party or responding party's friends. It may also include retaliation directed toward a third party because of that party's participation in a grievance process or for supporting a grievance.

Sexual harassment may also be considered a criminal offense under state and local assault and child abuse laws.

SEXUAL VIOLENCE

Sexual violence is a broad term and includes conduct that is also criminal in nature such as rape, sexual assault, stalking, child sexual abuse, sexual exploitation, human trafficking, unwanted sexual contact, sexual harassment, exposure and similar offenses. Although sexual violence may also be considered sexual harassment, criminal sexual violence against students within the district's jurisdiction needs to be reported to the Title IX director.

The initiation of a criminal complaint does not mitigate SDCCS's obligation to complete a prompt and equitable resolution of every complaint alleging sex discrimination.

Resources:

- [Section 504/ADA: Physical Access for Students, Parents and Employees with Disabilities](#)
- **Section 504/ADA Compliance: Students**
- [Disability Discrimination: Students](#)
- [Discrimination and Harassment: Students](#)

- [Discrimination and Harassment: Employees](#)
- [Gender Discrimination and Sexual Harassment \(Title IX\): Employees](#)
- [Non-Discrimination for Students: Gender Identity and Expression](#)
- [Safe Schools and Relations with Law Enforcement Authorities](#)
- [Reporting Child Abuse, Neglect or Educational Neglect](#)