



Navigating the Regulations on Title IX: Updates for 2026-2027

**San Leandro Unified
School District**

Fall 2026



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Information for Staff

- Review of the 2020 Title IX Regulations
- Recognizing & Responding if you witness or receive information about harassment.
- Recent Updates affecting LGBTQ+ Students

TITLE IX

Review of Title IX Regulations

PART 1

Title IX Regulations

- Title IX prohibits discrimination on the basis of sex in educational programs and activities against a person in the United States.
- This includes a prohibition on sexual harassment.
- Schools have an obligation to help prevent sexual harassment and respond to notice of sexual harassment.

Terms

- The Complainant is the person who is alleged to be a victim of sexual harassment, whether or not he or she actually files a complaint.
- The Respondent is the person who is accused of sexual harassment.

Definition of Sexual Harassment

Unwelcome conduct on the basis of sex:

- Quid Pro Quo harassment;
- Unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies equal access to an educational program or activity; or
- Sexual assault (including “fondling”), dating violence, domestic violence or sex-based stalking.

Definition of Sexual Harassment

- Quid pro quo and sexual assault are still absolutely prohibited.
- Domestic Violence and Stalking
- Other sexual harassment (hostile environment):
 - must be severe AND pervasive AND objectively offensive
 - must “effectively deny” equal access to a school’s program.

“Effectively Denies a Person’s Right to Equal Access to Education Program or Activity” Defined

- 2021 Q&A clarifies that an effective denial of equal access to educational opportunities may include:
 - ❖ Skipping class to avoid a harasser, a decline in a student’s GPA, having difficulty concentrating in class, or quitting a sports team but carrying on with other school activities following harassment.
- A complainant does not need to have already suffered loss of education before being able to report sexual harassment.

“Effectively Denies a Person’s Right to Equal Access to Education Program or Activity” Defined

- Does not need to show that a complainant’s total or entire educational access has been denied.
- Does not need to fail a class or exhibit traumatic symptoms.
- No concrete injury is required.

Examples of Sexual Harassment

- Unwelcome leering or propositions
- Unwelcome sexual slurs or epithets
- Graphic comments about an individual's body
- Sexual jokes, posters, gestures, cartoons
- Spreading sexual rumors
- Massaging, grabbing, sexual touching
- Sexual assault or coercion

New Definition of “Fondling”

- “Fondling” is a type of Title IX sexual assault. Definition was updated in June 2025.
- Intentional touching
- Clothed or unclothed
- Genitals, buttocks, groins, breasts, or other body parts
- Without the consent of the Complainant
- For the purpose of sexual degradation, sexual gratification, or sexual humiliation
- Touching of Complainant’s body parts by Respondent
OR
- Touching of Respondent’s body parts by Complainant

Examples of “Fondling”

- Now, conduct that might not fall under Title IX hostile environment sexual harassment (because it is not “pervasive” or “severe”), may meet the definition of “fondling.”
- Kissing
- Hugging
- Touching a thigh / Butt smacking
- Shoulder rubbing
- “Pantsing”

Scope (Where Conduct Must Occur)

- Title IX applies only to places and events where the District has substantial control over the respondent and the context in which sexual harassment occurred.
- Off campus events that are promoted, funded, or sponsored (like field trips, the school bus, and athletic events) are most likely covered; incidents that happen off campus and away from school events are most likely not covered.

Online or Electronic Misconduct Conduct

- 2021 Q&A clarifies that a school is considered to have substantial control over sexual harassment that takes places electronically or on an online platform when:
 - ❖ The conduct occurs on computers, and internet networks, owned or operated by the school.
 - ❖ A student uses a personal device during class time.

Recognizing & Responding if you witness or receive information about harassment

PART 2

Title IX Coordinator

- Applicants, students, parents, and unions must be notified of the name or title and contact information of the Title IX Coordinator and how to file a Title IX complaint.
- In SLUSD, the Title IX Coordinator is Gary Middleton, Director of Family and Student Support Services
Email: gmiddleton@slusd.us
Phone: (510) 667-6226

Notice of Sexual Harassment

- Districts must respond to “actual notice” of sexual harassment:
 - 2021 Q&A clarifies that actual knowledge also refers to notice of conduct that could constitute sexual harassment.
- “Actual notice” may be provided by an oral or written report from any person (not just a student or employee), an anonymous report, a newspaper article, or other means.

Notice of Sexual Harassment

- The District has “actual notice” if any employee hears or is told about the harassment or witnesses it.
- All employees must understand their duty to report all allegations of sexual harassment to site administrators or managers who must notify the Title IX Coordinator.

Overview of Responsibilities After Actual Notice of Sexual Harassment

- Respond promptly in a manner that is not deliberately indifferent (i.e. not clearly unreasonable in light of the known circumstances).
- Treat complainants and respondents equitably in the grievance process.

Immediate Steps Upon Notice of Sexual Harassment

- The Title IX Coordinator must promptly contact the complainant;
- Offer interim supportive measures (to commence prior to the grievance process) and consider the complainant's wishes;
- Explain the formal complaint process and that supportive measures are available even without a formal complaint.

Supportive Measures

- Interim supportive measures for the complainant may include:
 - Counseling;
 - Extensions of deadlines or other course-related adjustments;
 - Modification of work or class schedules; or
 - Mutual no-contact orders.

Supportive measures should be made available to the respondent as well as the complainant if a complaint is filed.

Actions Against the Respondent Prior to Completion of Grievance Process

- No discipline or punitive actions until the grievance process is complete and finds the respondent responsible.
- Emergency removal of student respondents is permitted for immediate threats. (Caveat for students with IEPs or 504 Plans)
- Administrative leave of employee respondents is permitted. (Caveat for employees with disabilities)

Grievance Procedure

- Only a complainant or his/her parents or guardians or the Title IX coordinator may file a formal complaint.
- At the time s/he files a complaint, the complainant must be participating, or attempting to participate, in an educational program or activity.



Privacy Considerations

- The district must keep confidential the identity of anyone who reports sexual harassment, files a complaint, or is accused of sexual harassment, except as necessary to conduct an investigation.
- BUT, keep in mind confidentiality is limited in practice:
 - Respondents are entitled to written notice if a formal complaint is filed;
 - Parties' ability to discuss the allegations may not be limited; and
 - Parties must be permitted to review all evidence, including witness statements.

Retaliation

- Retaliation for reporting harassment or participating in the process is prohibited.
- It may be retaliation to respond to a report of sexual harassment by charging a respondent with a non-sexual harassment offense for the purpose of avoiding the regulations.

State Law and Other District Policies Still Apply!

- The 2020 regulations includes the minimum required steps – states and districts can go further
- California state law and District policy (e.g., BP/AR 5145.7) cover situations not addressed by the Title IX (e.g., some off-campus incidents, isolated incidents)
- Uniform Complaint Procedures are used for sexual harassment not covered by Title IX.
- Report any sexual harassment you observe or hear about to your Principal or Gary Middleton and let them determine what procedures should be used.

Recent Updates affecting LGBTQ+ Students

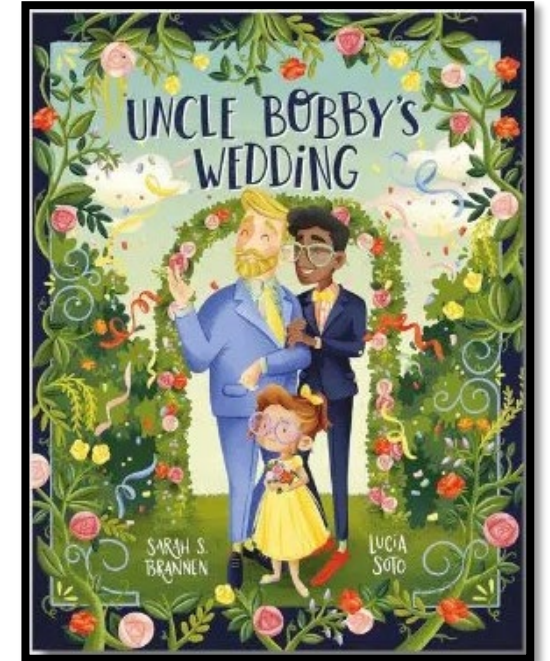
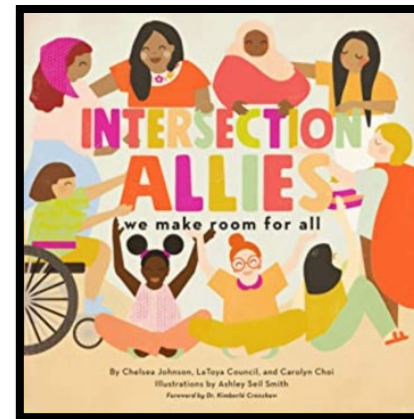
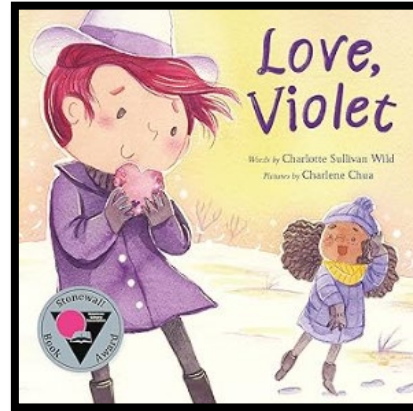
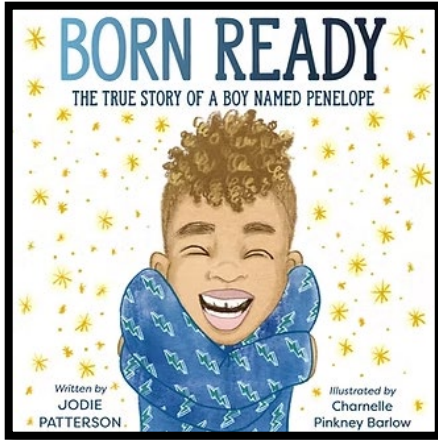
PART 3

LGBTQIA Case Updates

- 🍁 Mahmoud v. Taylor (Opt-out of curriculum)
- 🍁 Mirabelli v. Bonta (SAFETY Act / AB 1955)
- 🍁 City of Huntington Beach v. Newsom (SAFETY Act / AB 1955)
- 🍁 West Virginia v. P.B.J. and Little v. Hecox (Title IX athletics)
- 🍁 U.S. v. CDE and CIF

Mahmoud v. Taylor

LGBTQIA Educational Requirements, Books, and Curriculum



Mahmoud v. Taylor and Curriculum Opt-Outs

The *Mahmoud* decision expanded parents' First Amendment religious exercise right to shield their children from particular viewpoints conveyed in educational materials that are contrary to their sincerely held religious beliefs by “opting out” when these educational materials are used.

School districts must provide parents with:

1. Notice of LBGTQ+ Inclusive Curriculum
2. Opportunity to “Opt-out”

Mahmoud v. Taylor

Setting Up a System for Compliance

Notice:

Do teachers need to tell parents in advance of every time they plan to use LGBTQIA-inclusive material in the classroom? No. That was a requirement for the parties in the Mahmoud case. If school districts required its teachers to do this, it could be considered a change in work conditions in violation of the CBA.

What type of notice should school districts provide? School districts should provide annual notice of access to a prospectus of its curriculum under Ed Code §49091.14.

Opt-outs:

Who do parents make their request to? School sites should be directed to refer opt-out requests to a single, centralized District administrator. Parent requests should be in writing and the District's evaluation of the requests should be consistent with and established District protocol

What will the opt-out students do? The District should provide an alternative, age-appropriate setting with supervision.

Mahmoud v. Taylor Guidance

- Retain LGBTQIA Inclusive Curriculum or Risk noncompliance with California laws.
- Provide annual notice of access to the curriculum and notice of Opt-Out (Ed Code §49091.14)
- Review teacher responsibility under Ed Code §49091.10 regarding primary supplemental instructional material.
- Apply BP 6144 to *Mahmoud* Opt-Out Requests
- Standardize and Centralize the District's Opt-Out Request, Evaluation, and Response Process. Principals inform their staff.
- Require Opt-Out requesters to use District Request Form or review questions from form in-person, Zoom, or phone.

Mahmoud v. Taylor

Information Needed to Evaluate an Opt-Out Request

- 1) Date, name and contact information of the requester and relation to the student.
- 2) Name, age, and grade of the student.
- 3) Name of the student's teachers.
- 4) Identification of the specific part of the curriculum or educational materials from which the parent would like their child to be opted out.
- 5) Description of the specific religious beliefs, customs, and/or practices with which the specific part of the curriculum or educational materials interferes.
- 6) Explanation of how the specific instructional content substantially interferes with the student's religious development or poses a threat to the parent's ability to instill the religious beliefs and practices the parent wishes to instill.
- 7) Any other information the parent would like to share to assist the District in its understanding and evaluation of the request.

Mirabelli v. Bonta & Status of SAFETY Act (AB 1955)

- What is the SAFETY ACT?
 - Prohibits “outing” of a student’s gender identity without their consent.
 - Prohibits deadnaming.
 - Prohibits misgendering.

Mirabelli v. Bonta: Terminology

Gender Identity: an individual's internal sense of where they are on the gender spectrum (male, female, non-binary)

Gender Expression: the way a person communicates gender identity to others through behavior, clothing, hairstyles, voice or body characteristics

Gender Incongruence: a diagnosis

Gender Dysphoria: a diagnosis

Mirabelli Case Background

In 2023, teachers and parents sued the Escondido Union School District for its adoption of AR 5145.3 (the SAFETY Act), claiming that it infringed on their free speech and free exercise of religion rights because of the prohibition against disclosure of the student's gender identity without student consent. The plaintiffs believed teachers/school personnel should be allowed to disclose this information to the student's parents without student consent.

Mirabelli SCOTUS Take-aways

Mirabelli v. Bonta

- 🍁 AB 1955 with respect to K12 school district employees is still in effect.
- 🍁 BUT
 - ◆ Staff cannot mislead parents/guardians relating to their student's gender presentation at school, although there is no affirmative duty to disclose information.
 - ◆ Staff cannot continue referring to a student by a name/pronoun not associated with their legal name if the parent/guardian objects or otherwise directs.

SAFETY Act AB 1955 Training Requirement

- ❁ LGBTQ+ cultural competency training (PRISM training or state-approved training) must include a specific disclaimer / notice about parents' rights. This requirement does not apply to third-party training.
- ❁ How should a school district respond to an employee's request for a religious accommodation to "opt-out" of PRISM Training?

Mirabelli v. Bonta

Setting Up a System for Compliance

Do schools have to inform parents about their child's gender identity or expression and use of preferred pronouns at school?

- No. The Court did not impose an affirmative duty on schools to inform parents about their child's gender identity or expression at school.
- Staff should not make assumptions about a student's gender presentation and report "suspicions" to parents.
- Staff should not assume whether a student's parents are aware of their gender identity.
- Staff may not unilaterally decide to "out" a student to their parents. Students must consent, unless a parent asked a direct questions about their child's gender identity.

Mirabelli v. Bonta

Setting Up a System for Compliance

If a parent asks a direct question related to their child's gender identity, do schools have to answer?

- **Yes.** Schools may not mislead parents about their child's gender presentation by:
 - 1) directly lying to the parent;
 - 2) preventing the parent from accessing their student's educational records; or
 - 3) using a different set of pronouns or name when speaking with the parent than is used at school.
- **Exception:** The answer is no, if the student will suffer harm from the disclosure.

Mirabelli v. Bonta

Setting Up a System for Compliance

How should a school respond if a parent asks if their child has gender incongruence or gender dysphoria?

- The parent should be referred to a District administrator who can explain to the parent that the district does not have staff who are qualified to diagnose gender incongruence or gender dysphoria and request that the parent clarify what they are seeking from the district.
- The district should seek legal advice prior to and after meeting with the parent.

Mirabelli v. Bonta

Setting Up a System for Compliance

Do staff have to abide by a parent's wishes rather than the wishes of the student with respect to the name and pronouns selected by the student?

- **Yes.** If a parent has objected to the use of the name chosen by the student and the student's preferred pronouns, schools must use the student's legal name and pronouns that match the student's gender assigned at birth. This means that all school records and information systems would need to be changed to match the student's legal name and assigned pronouns.
- **Unless** doing so would be harmful to the student.

Mirabelli v. Bonta

Setting Up a System for Compliance

Does the District need parent permission when a student requests that their chosen name be on diplomas and class rosters?

- No, unless a parent has informed the school district of their objection to the school district using the student's preferred name and pronouns and the student has consented to disclosure or the district has determined that no harm will come to the student from disclosure. The district should seek legal advice if apparent has objected.

City of Huntington Beach v. Newsom (9th Cir. June 18, 2026)

- The Ninth Circuit in *City of Huntington Beach v. Newsom* issued a limited preliminary injunction that pauses the SAFETY Act only for seven specific parent plaintiffs in that case while the litigation continues.
- The challenged provisions of AB 1955 regulate the policies and practices of school districts prohibiting mandatory reporting policies or directives that would require an employee to disclose any information related to a pupil's sexual orientation, gender identity, or gender expression without the pupil's consent.

City of Huntington Beach v. Newsom

- California's SAFETY Act (AB 1955) remains in effect statewide. Although some recent reporting has incorrectly suggested that the Ninth Circuit broadly blocked enforcement of the SAFETY Act, that is not what the court ruled.

West Virginia v. P.B.J. and Title IX Athletics

- ❁ The Supreme Court held that K12 school districts may limit eligibility and participation for female sports teams by biological / assigned-at-birth sex.
- ❁ The Court found the West Virginia law banning transgender girl/women athletes did not violate Title IX or the Equal Protection Clause because all that needs to be provided is an “equal opportunity” to participate on a team.

West Virginia v. B. P. J. and Title IX Athletics (June 30, 2026)

- The Supreme Court did not discuss bathrooms, locker rooms, other facility access, or overnight trips. The holding was very narrowly focused on participation on sports teams.
- Under California law, transgender students should continue to be allowed to try out for, practice, and participate in competitions on the athletic team(s) for which they athletically and academically qualify and in accordance with their gender identity (Cal. Ed. Code 221.5).

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U.S. v. CDE, CIF (Title IX Athletics) Case Background

- ❖ On June 25, 2025, the Office for Civil Rights (“OCR”) of the U. S. Department of Education completed its investigation of CDE and CIF and concluded they violated Title IX by discriminating against women and girls on the basis of sex.
- ❖ State antidiscrimination law conflicts with OCR’s interpretation of Title IX under Trump administration because state law allows transgender females to participate in women and girls’ sports.

U.S. v. CDE, CIF (Title IX Athletics)

Current Status

- Order on motion to dismiss expected before August 31, 2026.
- The Supreme Court's rulings in the West Virginia and Idaho cases do not *require* states or school officials to ban transgender students from athletics.
- California continues to protect transgender athletes. "The text of Title IX and its implementing regulations do not require the exclusion of transgender girls from girls' sports and facilities, and prevailing law in the Ninth Circuit forecloses such an interpretation."

Questions??





Thank You!

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