



Poway Unified School District

Title IX Handbook

2022-2023

Poway Unified School District | Student Attendance and Discipline

Contents

1. Introduction.....	Page 2
2. What is Sexual Harassment.....	Page 3
3. School Step-By-Step Process.....	Page 5
4. Procedures for Gathering Evidence.....	Page 9
5. Student Interviews.....	Page 10
6. PUSD Title IX Notification of Rights and Procedures....	Page 11
7. Notice of Allegations for Complainant/Reporter.....	Page 13
8. Notice of Allegations for Respondent.....	Page 17
9. PUSD Uniform Complaint Procedures.....	Page 21
10. Facts and Findings Report Template.....	Page 23
11. Title IX Poster Information.....	Page 24
12. Title IX Trainings and Resources.....	Page 25
13. Title IX Coordinator Contact Information.....	Page 26

PUSD TITLE IX ADMINISTRATOR GUIDE

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 education program or activity receiving Federal financial assistance . . .” 20 USC 1681

The Poway Unified School District is an equal opportunity employer/program and is committed to an active Nondiscrimination Program. PUSD prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived ancestry, age, color, disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics.

All parents and students can access the PUSD Title IX page at:

<https://www.powayusd.com/en-US/Departments/Attendance-Discipline/Title-IX>

Staff can access additional documents and information in the employee only section at:

<https://www.powayusd.com/en-US/SpecialPages/Intranet/Intranet-Home/LSS/EO-Attendance-Discipline>

Please reach out to the District Title IX Coordinator immediately if there are any Sexual Harassment incidents:

Jamie Dayhoff
Director, Student Attendance & Discipline
Poway Unified School District
(858) 521-2843 (Office)
(760) 518-4899 (Cell)
(858) 485-1519 (Fax)

What is Sexual Harassment?

Conduct on the basis of sex that satisfies one or more of the following:

Sexual Harassment: 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.

Sexual Assault: Every person who induces any other person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will.

Sexual Battery: Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse.

Hostile environment (*Based upon sexual behaviors based upon unwelcome verbal or written gestures or physical behaviors.*)

A hostile environment is 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 recipient's education program or activity.

Quid Pro Quo: Recipient's employee conditioning an aid, service, or benefit of the recipient on an individual's participation in unwelcome sexual conduct. **New:** only applicable to employee Respondents; not applicable to Respondent volunteer, student, etc.

Sexual Violence Definitions

- Sexual assault: an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
- Dating violence: violence committed by a person who is, or has been, in a romantic or intimate relationship with the Complainant. The existence of such a relationship is based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- Domestic violence: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, person with whom the Complainant shares a child, person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, or a person similarly situated to a spouse of the Complainant.
- Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 1. fear for the person's safety or the safety of others; or
 2. suffer substantial emotional distress

Title IX Sexual Harassment includes Sexual Harassment, Sexual Battery, and Sexual Assault.

Ed Code differentiates between Sexual Harassment, Sexual Assault, and Sexual Battery.

Timeline

The District endeavors to complete the investigation and complaint process within reasonably prompt time frames, typically within 60-90 calendar days of the time the formal complaint was filed. If the District has good cause to extend the timelines, the District will provide written notice to the Complainant and Respondent explaining the reasons for the delay and the needed extension.

Title IX Roles

- Title IX Coordinator: oversees District's Title IX compliance and is a District employee
- Investigator: Conducts investigation and issues investigation report
- Decision-Maker: Makes determination of responsibility
- Appeals Officer: Hears appeals
- Informal Resolution Facilitator (IRF): assists parties in reaching an informal resolution, if applicable
- Investigator, Informal Resolution Facilitator, Decision-Maker, and Appeals Officer must be different persons and appropriately trained
- Title IX Coordinator may also serve as investigator or IRF and ensures the District is compliant with timelines.

Impartiality

Persons serving in key roles must not have a conflict of interest or bias for or against an individual Complainant or Respondents and must avoid a pre-judgement of the facts.

Confidentiality

The District will keep the identity of the Complainant, Respondent, and witness(es) confidential unless required by law or as necessary to carry out this complaint process. As such, the District will, to the extent possible, maintain the privacy and/or confidentiality during the complaint process. However, the Complainant and Respondent are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence during the investigation process needed to support their case, unless each party has signed a written agreement restricting the release of confidential information.

Jurisdiction Considerations

- Location of conduct?
- Relationship to school or school activity?
- Involvement of student, employee, volunteer, contractor?
- Policy/handbook language?
- If no jurisdiction under Title IX, may have jurisdiction to address alleged misconduct under another policy, rule, or law.

Off-Campus Sexual Harassment

- Case-by-case analysis.
- Investigate if school doesn't know where misconduct occurred.
- Not during school activity? Consider effects of off-campus conduct at school!
- Consider applicable codes of conduct and Revised School Code provisions.

SCHOOL STEP-BY-STEP PROCESS

1. ALLEGATION/NOTICE/GRIEVANCE TO SCHOOL

- A. A sexual harassment complaint is reported.
- B. Notify PUSD's Title IX Coordinator, Jamie Dayhoff, to determine school jurisdiction and for guidance.
- C. Identify the staff roles including Investigator and Decision-Maker.
- D. As soon as possible, the Investigator will meet with the Reporter/Complainant to interview and request a written statement detailing the event(s) including specifically what occurred, where and when event(s) occurred, and potential witnesses to the event(s). Also determine what evidence the Reporter/Complainant may have in the form of texts, social media posts, etc.
- E. Implement immediate supports for the Reporter/Complainant's physical and emotional safety.
 - a. Begin upon receipt of notice and implement on an ongoing basis, even after finding, if needed.
- F. Notify Law Enforcement and or Child Protective Services (CPS) if applicable
- G. Contact the Reporter/Complainant's parent(s) or guardian(s):
 - a) Notify all education rights holders of their child's report of sexual harassment
 - b) Describe the supportive measures put in place based on the report.
 - c) Notify the parents that the District Title IX Coordinator will reach out to them to provide information regarding the process.
 - d) Schedule **MEETING A** (see page 6) with the Reporter/Complainant and their parent(s) or guardian(s).
 - e) Follow up with an email summarizing the discussion and meeting date. In the email including links to:
the PUSD Title IX information page.
<https://www.powayusd.com/en-US/Departments/Attendance-Discipline/Title-IX> and
the PUSD Title IX Notification of Rights and Procedures.
<https://www.powayusd.com/PUSD/media/LSS/Attendance-Discipline/PUSD-Title-IX-Rights-and-Responsibilities.pdf>
- H. Notify PUSD's Title IX Coordinator to contact Reporter/Complainant's education rights holder(s) to explain the Title IX procedures and the rights of both the reporter and respondent.

2. **MEETING A: INITIAL MEETING WITH REPORTER/COMPLAINANT AND EDUCATION RIGHTS HOLDER(s)**

- A. Investigator will meet with the Reporter/Complainant and Education Rights Holder(s)
- B. Provide Education Rights Holder(s) and Reporter/Complainant with the **PUSD Title IX Notification of Rights and Procedures**
<https://www.powayusd.com/PUSD/media/LSS/Attendance-Discipline/PUSD-Title-IX-Rights-and-Responsibilities.pdf>
- C. Reporter/Complainant's Educational Rights Holder(s) can request a transfer to another campus if they wish to do so.
- D. Solidify supports/measures to help the Reporter/Complainant feel physically and emotionally safe at school.
- E. Provide an accessible, direct contact (the Investigator), for the Reporter/Complainant to contact in the event a problem arises or new information comes to light.
- F. Clarify and record additional pertinent information regarding the allegation(s).
- G. Provide the family with the staff roles, the process, and the timeline.
- H. Inform family that you will investigate the allegation(s) fully within the school's jurisdiction.
- I. Schedule a follow up meeting, (Meeting C), to assess the victim's safety plan and to follow up on results of school's Investigation.
- J. Follow up with an email summarizing the discussion, supportive measures, and date for Meeting C. In the email, include links to:
 - a. the PUSD Title IX information page
<https://www.powayusd.com/en-US/Departments/Attendance-Discipline/Title-IX> and
 - b. the PUSD Title IX Notification of Rights and Procedures
<https://www.powayusd.com/PUSD/media/LSS/Attendance-Discipline/PUSD-Title-IX-Rights-and-Responsibilities.pdf>

3. NOTIFICATION OF RESPONDENT and MEETING B (with Respondent & Ed Rights Holder)

- A. Send Respondent's Education Rights holder(s) Notice of Allegations for Student Respondent (template is included in this handbook on page 17).
- B. Notice of Allegations provides the Respondent with the behaviors they are being accused of, a request to contact the Investigator to schedule MEETING B, and provides the respondent with their rights and due process.
- C. Allow Respondent party 24 hours to schedule Meeting B with the Investigator.
- D. MEETING B must be held within 4 school days of sending Notice of Allegations.

4. FORMAL COMPREHENSIVE INVESTIGATION

- A. Witness interviews and written statements.
- B. Respondent interview and written statement during Meeting B.
- C. Follow up on witnesses and information provided by the Respondent.
- D. Evidence gathering.

5. FORMAL INVESTIGATIVE REPORT

- A. After reviewing any written responses, the Investigator will prepare a confidential Investigative Report that fairly summarizes the relevant evidence.
- B. The Investigative Report will be forwarded to the Complainant and Respondent (and their respective advisors, if any.)
- C. Complainant and Respondent will both have 10 days to submit another written response regarding the Investigative Report.

6. POST INVESTIGATION

- A. Once the investigation is complete, the Investigator will develop a report of findings for the Decision-Maker to review.
- B. The Decision-Maker will determine whether the allegations are true, false, not credible, or whether there is insufficient evidence.
- C. Findings will be based upon a preponderance of evidence. A preponderance of evidence is an evidentiary standard used in a burden of proof analysis. *Under this standard, the burden of proof is met when the Decision-Maker is convinced that there is a greater than 50% chance that the claim is true.*
- D. The Decision-Maker will develop a fact and finding summary report. (Add to Investigators report per template.)

7. MEETING C: MEET WITH RESPONDENT AND EDUCATION-RIGHTS HOLDER

- A. Assess victim's perspective of supports since previous meeting; adjust as needed.
- B. Report out on findings and outcomes. (Provide Facts and Findings Report.)
- C. Provide family and victim appeal rights in the event they wish to appeal beyond the school site. (Included in Reporter's Rights and Responsibilities.)
- D. If a finding is made that Respondent violated District policy, the matter will be referred to the applicable administrator, who will review any recommendations and determine and implement the appropriate disciplinary action for violation of the policy.

8. APPEALING THE DISTRICT'S DECISION

<https://www.powayusd.com/PUSD/media/Board-Images/BoardPolicy/5000/AR-5145-71-Title-IX-Sexual-Harassment-Complaint-Procedures.pdf>

Either party may appeal the District's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, Investigator(s), or Decision-Maker(s) affected the outcome.

If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
2. Ensure that the Decision-Maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same Decision-Maker(s) who reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
4. Issue a written decision describing the result of the appeal and the rationale for the result.
5. Provide the written decision simultaneously to both parties. An appeal must be filed in writing within 5 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered. A written decision shall be provided to the parties within 7 calendar days from the receipt of the appeal.

If the Reporter or Respondent wish to appeal beyond the school site, please notify the PUSD Title IX Coordinator immediately.

Procedures for Gathering Evidence

- 1) **Disciplinary notes must:**
 1. Clearly document the incident: brief, easily understood, chronological order, accurate portrayal.
 2. Include the exact location, time, and date of the incident.
 3. Include the name of person(s) present or involved in any degree: adult witnesses, student witnesses, and potential suspects.
- 2) **Witness statements must:**
 - a. Be collected from all witnesses.
 - b. Be conducted at the time of the incident—if circumstances prohibit interviewing witnesses at the time, interviews must be conducted as soon as possible.
 - c. Be in original handwriting.
 - d. Be specific and as detailed as possible.
 - e. Be reviewed for clarity.
 - f. Include the date, time, and location where the statement was written.
 - g. Contain all names of the accused or victims.
- 3) Administrator statements must be accurate and factually based.
- 4) Submitted evidence must clearly relate to the alleged violation (for example, photographs, maps, diagrams, etc.)
- 5) Conclusions must be based on facts—premature or personal opinions cannot be considered.
- 6) Appropriate Education Code violation must be determined once all facts are gathered.

School officials have a responsibility to conduct thorough investigations and respond immediately to Ed. Code violations.

Conducting an Objective Student Interview

- You do not need parent permission to question a witness or possible offender while investigating a school offense or behavior event. (You must notify the parent or guardian afterward that you interviewed the student.)**
- Don't make assumptions.**
- Establish a timeline comprised of exactly what the student heard and/or saw.**
- Follow up with the source when hearsay occurs.**
- Use simple, non-leading questions.**
- Did something happen involving (student name, subject matter, staff person)?**
- Do not react—positively or negatively—to the responses.**
- Don't invite the student to speculate or offer possible answers.
(You can have student provide motive and background information that is relevant.)**
- Don't provide more information than the student already has concerning the event.**
- Prompt the student to maintain confidentiality and to only discuss the incident with their parents and school staff.**
- Never promise to not share information with others.**
- Have student complete and sign a witness statement.**
- You can scribe for younger students or students with disabilities (Read it back to the student for accuracy before they sign it.)**

PUSD Title IX Notification of Rights and Procedures

Rights and Responsibilities

During this complaint process, the Respondent is presumed *not* to be responsible for the alleged misconduct unless and until a trained, impartial, non-biased Decision-Maker reaches a different determination. The Decision-Maker will not make a determination of responsibility until after an investigation where the Complainant and Respondent will be given an opportunity during the review and comment period to review all directly related and/or relevant evidence obtained during the investigation.

The Complainant and Respondent may each have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may be present for any meeting, interview, or hearing during this complaint process. The advisor may inspect and review any evidence obtained as part of the investigation and may assist with any written questions and/or the written cross-examination process.

The District prohibits the Complainant, Respondent, and any witness from knowingly making false statements or knowingly submitting false information during the complaint process.

Investigation Process

The District will assign an Investigator to investigate the sexual harassment allegations reported by Complainant.

This investigation will be conducted in a timely, thorough, and impartial manner. The Investigator intends to interview the Complainant, relevant witnesses, and Respondent in a discrete and confidential manner. Disclosure of facts and allegations by the Investigator to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation. You may bring an advisor of your choice, such as a parent, support person, or attorney to your interview or related meetings. The Investigator will keep Complainant and Respondent informed of the progress of this investigation.

The Investigator will also review any documents and other information relevant to the allegations. If you have any materials that you believe may be relevant to this investigation that you have not already submitted to the District, please send those to me or give copies to the Investigator during your upcoming interview, (e.g., emails, texts, instant messages, photos, social media postings, videos, notes, or other documents). However, if you have photos or videos involving nudity or sexual activity of minors, please do not forward those to us at this time. The District may need to take certain precautions before viewing such materials. The Investigator may, however, ask you to recount what you observed to be contained in the relevant photo or video material. During the investigation, the Investigator will inspect the evidence and assess the relevance, weight, and credibility of the information provided. Please note, you must not tamper with or alter any evidence, and you must not tamper with or attempt to alter any witness testimony.

Prior to completing the Investigative Report, the Investigator will send to the Complainant and Respondent (and their respective advisors, if any) the evidence that has been gathered, likely in the form of a confidential Draft Report of Evidence. You and your advisor may inspect and review evidence and will have at least 10 days to submit a written response.

After reviewing any written responses, the Investigator will prepare a confidential Investigative Report that fairly summarizes the relevant evidence, and the Investigative Report will be forwarded to the Complainant and Respondent (and their respective advisors, if any.) Complainant and Respondent will both have at least 10 days to submit another written response regarding the Investigative Report.

Decision-Maker and Determination of Responsibility

After the parties’ review and comment period, the District will assign a trained, unbiased Decision-Maker, who is not the Title IX Coordinator or the Investigator. Before the Decision-Maker reaches a determination regarding responsibility, the Complainant and Respondent will have the opportunity to submit written, relevant questions that either party wants the Decision-Maker to ask of another party or witness. The Decision-Maker will provide Complainant and Respondent with the answer, and allow for additional, limited follow-up questions from Complainant and Respondent. The Decision-Maker must explain any decision to exclude a question as not relevant.

After considering the Investigative Report and the answers to the written questions, the Decision-Maker will issue a written determination regarding responsibility. The Decision-Maker will make findings of fact, reach conclusions, explain the rationale, and determine whether policy has been violated based on a preponderance of the evidence standard (i.e., “it is more likely than not the allegation occurred or did not occur”). The Decision-Maker may also make recommendations for any sanctions against the Respondent or remedies for the Complainant, if applicable. The District will send the Complainant and Respondent a written decision, sometimes called a Notice of Outcome. The Notice of Outcome will explain how each party can file an appeal. If a finding is made that Respondent has not violated the District’s policy, then the investigation will be closed, but the Complainant may still receive supportive measures.

If a finding is made that Respondent violated District policy, the matter will be referred to the applicable administrator, who will review any recommendations and determine and implement the appropriate disciplinary action for violation of the policy. Regardless of the outcome of the investigation, the District shall determine what occurred and whether any corrective actions or supportive measures are needed to prevent or address any issues discovered during the investigation. After exhausting any appeal procedure, the District will implement the sanctions for Respondent and remedies for Complainant, if any.

Timelines

The District endeavors to complete the investigation and complaint process within reasonably prompt timeframes, typically within 60-90 calendar days of the time the formal complaint was filed. If the District has good cause to extend the timelines, the District will provide written notice to the Complainant and Respondent explaining the reasons for the delay and the needed extension.

Confidentiality

The District will keep the identity of the Complainant, Respondent, and witness(es) confidential unless required by law or as necessary to carry out this complaint process. As such, the District will, to the extent possible, maintain the privacy and/or confidentiality during the complaint process. However, the Complainant and Respondent are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence during the investigation process needed to support their case, unless each party has signed a written agreement restricting the release of confidential information.

No Retaliation

The District or other person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing. If you believe you have been retaliated against, please contact this office immediately.

NOTICE OF ALLEGATIONS FOR STUDENT COMPLAINANT/REPORTER

(Send Out Following Initial Formal Meeting with Reporter)

[LETTERHEAD]

CONFIDENTIAL

Sent Via email at [EMAIL ADDRESS] and U.S. Mail

[DATE]

[STUDENT NAME]

[PARENT/GUARDIAN NAME(S)]

[ADDRESS]

Re: Notice of Allegations (“NOA”)

Dear [NAMES]:

On [DATE], I met with you and received your formal complaint against [NAME OF RESPONDENT]. You alleged that [NAME OF RESPONDENT] [SEXUALLY HARASSED, SEXUALLY BATTERED, or SEXUALLY ASSAULTED] you, [NAME OF COMPLAINANT], on [DATE] at [DESCRIBE LOCATION]. The purpose of this NOA is to notify you of supportive measures, summarize your allegations against [NAME OF RESPONDENT], describe the relevant policies, inform you of your rights and responsibilities, and describe the District’s grievance/complaint process.

Allegations The Complainant alleges that [NAME OF RESPONDENT] engaged in the following conduct:

[PROVIDE A DESCRIPTION OF THE INCIDENT WITH ENOUGH DETAIL FOR A MEANINGFUL SUMMARY OF ALL THE ALLEGATIONS.]

Supportive Measures Established

[PROVIDE A DESCRIPTION OF THE INCIDENT WITH ENOUGH DETAIL FOR A MEANINGFUL SUMMARY OF ALL THE ALLEGATIONS.]

(Supportive Measures must be offered by the school irrespective of findings or jurisdiction.)

Potential Policy Violations, Corrective Action and/or Sanctions

These allegations, if found to have occurred, may violate the policies listed below:

If found responsible for the alleged misconduct, Respondent may be subject to corrective action and sanctions up to, and including, a behavior contract, no contact orders, suspension, expulsion, involuntary transfer, and/or other disciplinary or corrective measures. The District will also provide Complainant with remedies to restore the Complainant's equal access to District's educational programs and activities.

Rights and Responsibilities

During this complaint process, the Respondent is presumed *not* to be responsible for the alleged misconduct unless and until a trained, impartial, non-biased Decision-Maker reaches a different determination. The Decision-Maker will not make a determination of responsibility until after an investigation where the Complainant and Respondent will be given an opportunity during the review and comment period to review all directly related and/or relevant evidence obtained during the investigation. The Complainant and Respondent may each have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may be present for any meeting, interview, or hearing during this complaint process, and the advisor may inspect and review any evidence obtained as part of the investigation. The advisor may assist with any written question and/or written cross-examination process.

The District prohibits the Complainant, Respondent, and any witness from knowingly making false statements or knowingly submitting false information during the complaint process.

Investigation Process

The District has assigned an Investigator, [NAME OF INVESTIGATOR], to investigate the sexual harassment allegations reported by Complainant.

This investigation will be conducted in a timely, thorough, and impartial manner. The Investigator intends to interview the Complainant, relevant witnesses, and Respondent in a discrete and confidential manner. Disclosure of facts and allegations by the Investigator to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation. You may bring an advisor of your choice, such as a parent, support person, or attorney to your interview or related meetings. The Investigator will keep Complainant and Respondent informed of the progress of this investigation.

The Investigator will also review any documents and other information relevant to the allegations. If you have any materials that you believe may be relevant to this investigation that you have not already submitted to the District, please send those to me or give copies to the Investigator during your upcoming interview, (e.g., emails, texts, instant messages, photos, social media postings, videos, notes, or other documents). However, if you have photos or videos involving nudity or sexual activity of minors, please do not forward those to us at this time. The District may need to take certain precautions before viewing such materials. The Investigator may, however, ask you to recount what you observed to be contained in the relevant photo or video material. During the investigation, the Investigator will inspect the evidence and assess the relevance, weight, and credibility of the information provided. Please note, you must not tamper with or alter any evidence, and you must not tamper with or attempt to alter any witness testimony.

Investigation Process (continued)

Prior to completing the Investigative Report, the Investigator will send to the Complainant and Respondent (and their respective advisors, if any) the evidence that has been gathered, likely in the form of a confidential Draft Report of Evidence. You and your advisor may inspect and review evidence and will have at least 10 days to submit a written response.

After reviewing any written responses, the Investigator will prepare a confidential Investigative Report that fairly summarizes the relevant evidence, and the Investigative Report will be forwarded to the Complainant and Respondent (and their respective advisors, if any.) Complainant and Respondent will both have at least 10 days to submit another written response regarding the Investigative Report.

Decision-Maker and Determination of Responsibility

After the parties' review and comment period, the District will assign a trained, unbiased Decision-Maker, who is not the Title IX Coordinator or the Investigator. Before the Decision-Maker reaches a determination regarding responsibility, the Complainant and Respondent will have the opportunity to submit written, relevant questions that either party wants the Decision-Maker to ask of another party or witness. The Decision-Maker will provide Complainant and Respondent with the answers, and allow for additional, limited follow-up questions from Complainant and Respondent. The Decision-Maker must explain any decision to exclude a question as not relevant

After considering the Investigative Report and the answers to the written questions, the Decision-Maker will issue a written determination regarding responsibility. The Decision-Maker will make findings of fact, reach conclusions, explain the rationale, and determine whether policy has been violated based on a preponderance of the evidence standard (i.e., "it is more likely than not the allegation occurred or did not occur"). The Decision-Maker may also make recommendations for any sanctions against the Respondent or remedies for the Complainant, if applicable. The District will send the Complainant and Respondent a written decision, sometimes called a Notice of Outcome. The Notice of Outcome will explain how each party can file an appeal. If a finding is made that Respondent has not violated the District's policy, then the investigation will be closed, but the Complainant may still receive supportive measures.

If a finding is made that Respondent violated District policy, the matter will be referred to the applicable administrator, who will review any recommendations and determine and implement the appropriate disciplinary action for violation of the policy. Regardless of the outcome of the investigation, the District shall determine what occurred and whether any corrective actions or supportive measures are needed to prevent or address any issues discovered during the investigation. After exhausting any appeal procedure, the District will implement the sanctions for Respondent and remedies for Complainant, if any.

Timelines

The District endeavors to complete the investigation and complaint process within reasonably prompt timeframes, typically within 60-90 calendar days of the time the formal complaint was filed. If the District has good cause to extend the timelines, the District will provide written notice to the Complainant and Respondent explaining the reasons for the delay and the needed extension.

Confidentiality The District will keep the identity of the Complainant, Respondent, and witness(es) confidential unless required by law or as necessary to carry out this complaint process. As such, the District will, to the extent possible, maintain the privacy and/or confidentiality during the complaint process. However, the Complainant and Respondent are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence during the investigation process needed to support their case, unless each party has signed a written agreement restricting the release of confidential information.

No Retaliation The District or other person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing. If you believe you have been retaliated against, please contact this office immediately.

If you have any additional questions during the course of the investigation, please do not hesitate to contact me at [LIST CONTACT INFORMATION].

Very Truly Yours,

[INVESTIGATORS NAME]

Title

NOTICE OF ALLEGATIONS FOR STUDENT RESPONDENT

(Send Out Prior to Interviewing Respondent)

[LETTERHEAD]

CONFIDENTIAL

Sent Via email at [EMAIL ADDRESS] and U.S. mail

[DATE]

[STUDENT NAME]

[PARENT/GUARDIAN NAME(S)]

[ADDRESS]

Re: Notice of Allegations (“NOA”)

Dear [NAMES]:

Our office is investigating an incident in which you were allegedly involved that occurred on [DATE] at [LOCATION] by [REPORTER].

According to the information the school has received thus far, you allegedly [DESCRIPTION OF BEHAVIOR]. This alleged behavior may be in violation of the following CA Education Code(s) or School Rules: [LIST OF EDUCATION CODES ALLEGEDLY VIOLATED].

I need to meet with you to discuss this incident. It is our intention to address and resolve this matter as quickly and thoroughly as possible for all individuals concerned. **Accordingly, please contact my office at the number provided below by [DATE ONE WEEK OUT] to schedule a meeting.**

The scheduled meeting time is your opportunity to respond to these allegations, provide names of witnesses, ask questions about the process, and assist me in completing a timely and thorough investigation. Please attend this meeting in person. You may bring an advisor to this meeting if you wish.

The school is authorized to render a decision without your participation, and a failure to respond to this meeting request within one week of the date of this letter may result in a decision being made on the alleged violations in your absence. You have the right to discuss this matter with your advisors and others, but the school is required under federal law to conduct this investigation confidentially.

We ask for your discretion in what you choose to share, and hope that you will respect the private and sensitive nature of these allegations. Please do not contact or in any way attempt to intimidate or persuade the person or persons who reported these allegations. Please call me at [PHONE #] or email me at [EMAIL] to schedule your meeting.

Potential Policy Violations, Corrective Action and/or Sanctions

These allegations, if found to have occurred, may violate the policies listed below:

If found responsible for the alleged misconduct, Respondent may be subject to corrective action and sanctions up to and including a behavior contract, no contact orders, suspension, expulsion, involuntary transfer, and/or other disciplinary or corrective measures. The District will also provide Complainant with remedies to restore the Complainant's equal access to District's educational programs and activities.

Rights and Responsibilities

During this complaint process, the Respondent is presumed *not* to be responsible for the alleged misconduct unless and until a trained, impartial, non-biased Decision-Maker reaches a different determination. The Decision-Maker will not make a determination of responsibility until after an investigation where the Complainant and Respondent will be given an opportunity during the review and comment period to review all directly related and/or relevant evidence obtained during the investigation. The Complainant and Respondent may each have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may be present for any meeting, interview, or hearing during this complaint process, and the advisor may inspect and review any evidence obtained as part of the investigation. The advisor may assist with any written question and/or written cross-examination process.

The District prohibits the Complainant, Respondent, and any witness from knowingly making false statements or knowingly submitting false information during the complaint process.

Investigation Process

The District has assigned an Investigator, [NAME OF INVESTIGATOR], to investigate the sexual harassment allegations reported by Complainant.

This investigation will be conducted in a timely, thorough, and impartial manner. The Investigator intends to interview the Complainant, relevant witnesses, and Respondent in a discrete and confidential manner. Disclosure of facts and allegations by the Investigator to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation. You may bring an advisor of your choice, such as a parent, support person, or attorney, to your interview or related meetings. The Investigator will keep Complainant and Respondent informed of the progress of this investigation.

The Investigator will also review any documents and other information relevant to the allegations. If you have any materials that you believe may be relevant to this investigation that you have not already submitted to the District, please send those to me or give copies to the Investigator during your upcoming interview, (e.g., emails, texts, instant messages, photos, social media postings, videos, notes, or other documents). However, if you have photos or videos involving nudity or sexual activity of minors, please do not forward those to us at this time. The District may need to take certain precautions before viewing such materials. The Investigator may, however, ask you to recount what you observed to be contained in the relevant photo or video material. During the investigation, the Investigator will inspect the evidence and assess the relevance, weight, and credibility of the information provided. Please note, you must not tamper with or alter any evidence, and you must not tamper with or attempt to alter any witness testimony.

Investigation Process (continued)

Prior to completing the investigative report, the Investigator will send to the Complainant and Respondent (and their respective advisors, if any) the evidence that has been gathered, likely in the form of a confidential Draft Report of Evidence. You and your advisor may inspect and review evidence and will have at least 10 days to submit a written response.

After reviewing any written responses, the Investigator will prepare a confidential Investigative Report that fairly summarizes the relevant evidence, and the Investigative Report will be forwarded to the Complainant and Respondent (and their respective advisors, if any). Complainant and Respondent will both have at least 10 days to submit another written response regarding the Investigative Report.

Decision-Maker and Determination of Responsibility

After the parties’ review and comment period, the District will assign a trained, unbiased Decision-Maker, who is not the Title IX Coordinator or the Investigator. Before the Decision-Maker reaches a determination regarding responsibility, the Complainant and Respondent will have the opportunity to submit written, relevant questions that a party wants the Decision-Maker to ask of another party or witness. The Decision-Maker will provide Complainant and Respondent with the answers, and allow for additional, limited follow-up questions from Complainant and Respondent. The Decision-Maker must explain any decision to exclude a question as not relevant

After considering the Investigative Report and the answers to the written questions, the Decision-Maker will issue a written determination regarding responsibility. The Decision-Maker will make findings of fact, reach conclusions, explain the rationale, and determine whether policy has been violated based on a preponderance of the evidence standard (i.e., “it is more likely than not the allegation occurred or did not occur”). The Decision-Maker may also make recommendations for any sanctions against the Respondent or remedies for the Complainant, if applicable. The District will send the Complainant and Respondent a written decision, sometimes called a Notice of Outcome. The Notice of Outcome will explain how each party can file an appeal. If a finding is made that Respondent has not violated the District’s policies, then the investigation will be closed, but the Complainant may still receive Supportive Measures.

If a finding is made that Respondent violated District policy, the matter will be referred to the applicable administrator, who will review any recommendations and determine and implement the appropriate disciplinary action for violation of the policy. Regardless of the outcome of the investigation, the District shall determine what occurred and whether any corrective actions or supportive measures are needed to prevent or address any issues discovered during the investigation. After exhausting any appeal procedure, the District will implement the sanctions for Respondent and remedies for Complainant, if any.

Timelines

The District endeavors to complete the investigation and complaint process within reasonably prompt timeframes, typically within 60-90 calendar days of the time the formal complaint was filed. If the District has good cause to extend the timelines, the District will provide written notice to the Complainant and Respondent explaining the reasons for the delay and the needed extension.

Confidentiality

The District will keep the identity of the Complainant, Respondent, and witness(es) confidential unless required by law or as necessary to carry out this complaint process. As such, the District will, to the extent possible, maintain the privacy and/or confidentiality during the complaint process. However, the Complainant and Respondent are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence during the investigation process needed to support their case, unless each party has signed a written agreement restricting the release of confidential information.

No Retaliation

The district or other person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing. If you believe you have been retaliated against, please contact this office immediately.

If you have any additional questions during the course of the investigation, please do not hesitate to contact me at [LIST CONTACT INFORMATION].

Very Truly Yours,

[INVESTIGATORS NAME]

Title

PUSD Uniform Complaint Procedures

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages early resolution of complaints whenever possible. To resolve complaints that may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation. The following procedures shall be used to address all complaints that allege the District has violated federal or state laws or regulations governing unlawful discrimination in education programs:

Filing of Complaint

If a Complainant is unable or unwilling to resolve the complaint directly with the employee, they may submit an oral or written complaint to the employee's immediate supervisor or the principal.

Any individual, public agency, or organization may file a written complaint of noncompliance with the designated Uniform Complaint Procedures Coordinator. The complaint must be initiated no later than 12 months from the date when the alleged discrimination occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination.

A written complaint shall include:

- a. The full name of each employee involved.
- b. A brief but specific summary of the complaint and the facts surrounding it.
- c. A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter

Appropriate Investigation of Complaint

Staff responsible for investigating complaints shall attempt to resolve the complaint to the satisfaction of the parties involved within 30 days.

Appeal to Associate Superintendent

The Complainant and/or Respondent may present a written appeal of the investigation findings to the Associate Superintendent of Personnel Support Services within 10 business days of receiving the written report of the findings. The impartial Investigator may meet with the parties and shall review all information relevant to the complaint. The Investigator shall render a decision within 15 business days.

Appeal to Superintendent

The Complainant and/or Respondent may present a written appeal decision to the Superintendent within 10 business days of receiving the Associate Superintendent's decision. The Superintendent shall render a decision on the appeal within 15 business days.

Appeal to the Governing Board

The Complainant and/or Respondent may appeal the decision to the Board within 10 business days of receiving the decision of the Superintendent or Designee. Upon receiving an appeal, the Board may decide to hear the matter, or may uphold the decision without a hearing. The Board shall render its decision within 10 business days of the hearing. The decision of the Board shall be final.

See: BP 1312.3(a) UNIFORM COMPLAINT PROCEDURE



Poway Unified School District
15250 Avenue of Science San
Diego, CA 92128
858-521-2800 | www.powayusd.com

Uniform Complaint Form

PUSD Administrative Regulation 1312.1(a)

Check the appropriate box(es):

- Discrimination Complaint
- Harassment Complaint
- Bullying/Intimidation Complaint

PLEASE PRINT

Complainant Name: _____

Mailing Address: _____

Phone: _____ Email Address: _____

Date of Alleged Incident: _____ Location of Alleged Incident: _____

Narrative Summary of Alleged Incident – include time, place, participants, and witnesses to the alleged violation.
(If more space is needed, please attach additional sheets):

Desired Outcome of Investigation:

Complainant's Signature _____ Date _____

Please email this completed form to
James Jimenez, Associate
Superintendent of Personnel Support
Services, at jjimenez@powayusd.com.

Complainants may, in some circumstances, have the right to appeal decisions to the California Department of Education, or to seek review by the U.S. Department of Education, Office of Civil Rights, or may seek civil remedies for allegations of employment discrimination through the U.S. Equal Employment Opportunity Commission and California Department of Fair Employment and Housing. For more information, please see the Poway Unified School District Board policy regarding Uniform Complaint Procedures at [\[PUSD AR 1312.3\]](#).

For Human Resources Only:
Date Received: _____
Received By: _____

FACTS and FINDINGS REPORT

[SCHOOL]
[NAME OF INVESTIGATOR(S)]
[DATE OF REPORT]

This report addresses alleged violations of the [EDUCATION CODE(s)] and District Policies. [INVESTIGATOR NAME(S)] conducted the investigation into these allegations and made a determination as to whether the evidence supports the allegations made against the Respondent and establishes whether a violation of education code and or policy exists.

Reporting Party: [NAME]
Responding Party: [NAME]

Summary of the Allegation and Alleged Violation

Also include date of reported incident, date report was made, and to whom report was made.

Reports to Law Enforcement and or CPS: *(Agency, Name of Officer, and Date of Report)*

Summary of supports offered to Reporting Party:

Statement and date UCPs were provided to Reporting Party and Education Rights Holder:

Jurisdiction Statement:

Document the Date and Delivery of Notice of Allegations Letter:

EVIDENCE:

Interview(s) with Reporting Party:

Interview(s) with Responding Party:

Information Provided By Witnesses:

FINDINGS OF FACT AND ANALYSIS: *(Completed by the Decision-Maker)*

CONCLUSION:

Based on the totality of the circumstances and the information obtained pursuant to this investigation and based on whether the evidence supports the allegations made against the Respondent and establishes a violation of education code and or policy, I conclude that [IT IS]/ [IS NOT] a violation of [HATE POLICY and or EDUCATION CODE].

Discipline Administered to Respondent (If Applicable):

Individual and school-wide measures implemented to avoid recurrence of incident:

[Signature]
[name]/[Position]

TITLE IX POSTERS

Districts are required to display a poster with their Title IX policy in a prominent location and include it in an orientation for employees and students. These policies shall include information as to where to obtain specific procedures for reporting charges of sexual harassment and available remedies.

The poster shall display, at minimum, all the following information:

- The rules and procedures for reporting a charge of sexual harassment.
- The name, phone number, and email address of an appropriate school site official to contact to report a charge of sexual harassment.
- The rights of the reporting pupil, the Complainant, and the Respondent.
- The responsibilities of the school site in accordance with the applicable written policy on sexual harassment

The poster shall be prominently and conspicuously displayed in each bathroom and locker room at the school site. The poster may be prominently and conspicuously displayed in public areas at the school site that are accessible to, and commonly frequented by, pupils, including, but not limited to, classrooms, classroom hallways, gymnasiums, auditoriums, and cafeterias.

Posters have been distributed to all secondary sites.



TITLE IX TRAININGS AND RESOURCES

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

<https://www.powayusd.com/PUSD/media/Board-Images/BoardPolicy/5000/AR-5145-71-Title-IX-Sexual-Harassment-Complaint-Procedures.pdf>

PUSD ADMINISTRATOR TRAINING

<https://www.powayusd.com/PUSD/media/PSS/Final-9-11-Poway-USD-K-12-PPT-Handout-Title-IX-Team-and-New-Process.pdf>

TITLE IX TRAINING SERIES

<https://investigations.uoregon.edu/title-ix-training-materials>

Module 1 – An Introduction to Managing Title IX Sexual Harassment on Campus

<https://youtu.be/Ogn0q7RF0X8>

Module 2 – Formal Complaints of Title IX Sexual Harassment

<https://youtu.be/SxwdsrZ7cO8>

Module 3 – Title IX Investigations & Informal Resolutions

<https://youtu.be/plMwthkVrYg>

Module 4 – Applies to Post Secondary Institutions

Module 5 – Title IX Determinations

<https://youtu.be/stExufFdCRs>

Module 6 – Title IX Appeals

<https://youtu.be/9pEI2ou9GeQ>

Please contact me any time with questions or for support:

Jamie Dayhoff

Director, Attendance and Discipline

Poway Unified School District

(858) 521-2843 (Office)

(760) 518-4899 (Cell)

jdayhoff@powayusd.com

<https://www.powayusd.com/en-US/Departments/Attendance-Discipline/Attendance-Discipline-EO>

<https://www.powayusd.com/en-US/Departments/Attendance-Discipline/Title-IX>

PUSD Non-Discrimination Statement

The Poway Unified School District (PUSD) is an equal opportunity employer/program and is committed to an active Nondiscrimination Program. PUSD prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ancestry, national origin, nationality, immigration status, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental ability, sex, sexual orientation, gender, gender identity, or gender expression or association with a person or a group with one or more of these actual or perceived characteristics. For more information, please contact Title IX/Equity Compliance Officer, James Jimenez, Associate Superintendent of Personnel Support Services, Poway Unified School District, 15250 Avenue of Science, San Diego, CA 92128, 1-858-521-2800, extension 2121, jjimenez@powayusd.com. For students, you may contact Title IX Coordinator Jamie Dayhoff, Director of Attendance and Discipline, Poway Unified School District, 1-858-521-2840, jdayhoff@powayusd.com