

Title IX: Sexual Misconduct

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Learning Outcomes

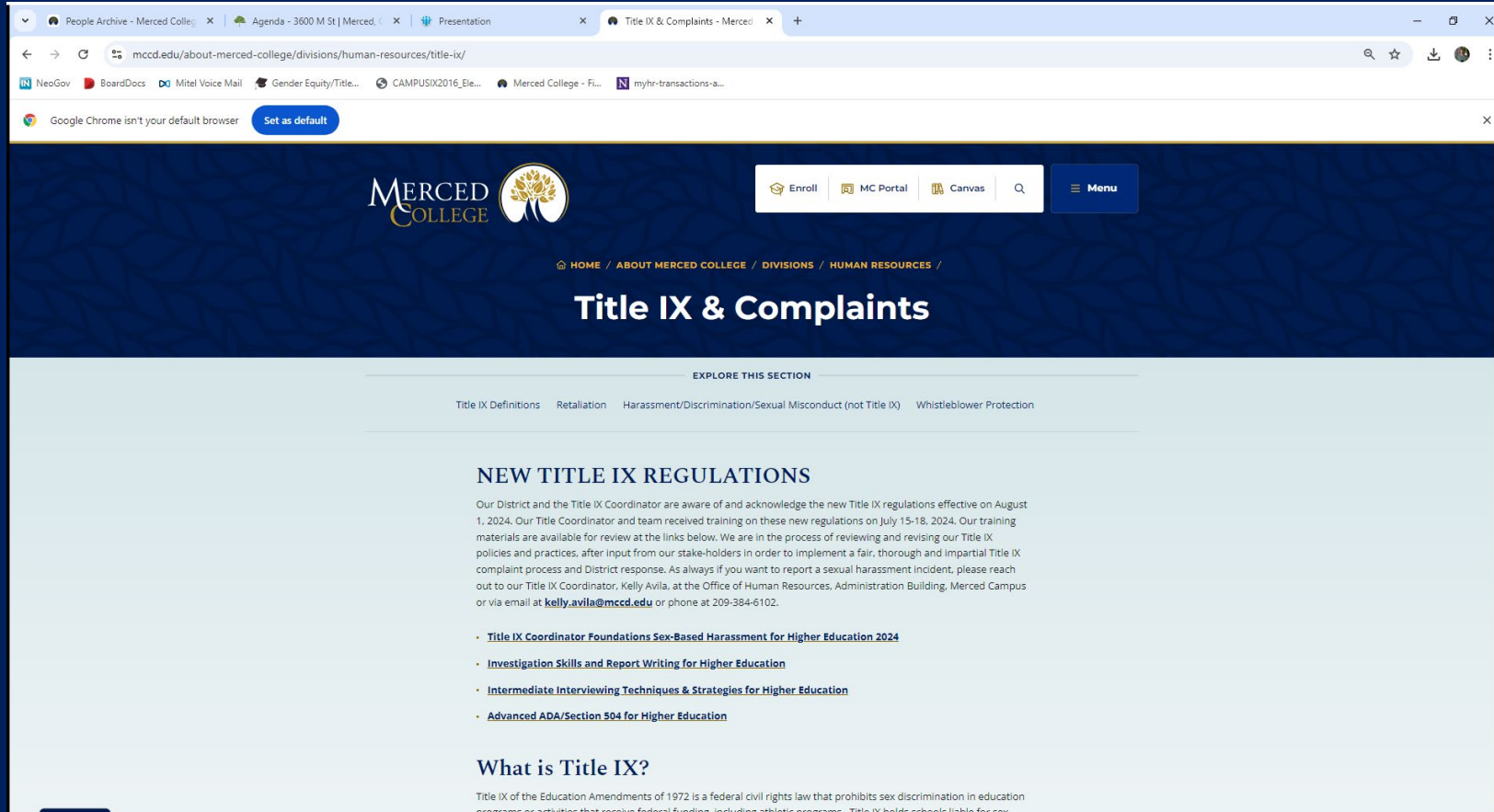
- 1) Role of Title IX Coordinator
- 2) District's obligation to address sex discrimination
- 3) What is Sexual Misconduct?
- 4) Overview of applicable MCCD Policies and Procedures
- 5) Title IX Investigations Overview & Grievance Procedure
- 6) Supportive Measures

What is 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 educational program or activity receiving federal financial assistance.”

20 U.S.C. §1681 & 34 C.F.R. PART 106 (1972)

Where can I find Title IX information?



The screenshot shows a web browser window with the URL mccd.edu/about-merced-college/divisions/human-resources/title-ix/. The page features the Merced College logo and navigation links for Enroll, MC Portal, Canvas, and a Menu. The main heading is "Title IX & Complaints". Below this, there is a section titled "EXPLORE THIS SECTION" with links to Title IX Definitions, Retaliation, Harassment/Discrimination/Sexual Misconduct (not Title IX), and Whistleblower Protection. The "NEW TITLE IX REGULATIONS" section provides information about the new regulations effective on August 1, 2024, and lists training materials available for review. The "What is Title IX?" section explains that Title IX is a federal civil rights law that prohibits sex discrimination in education.

People Archive - Merced College x Agenda - 3600 M St | Merced x Presentation x Title IX & Complaints - Merced x +

mccd.edu/about-merced-college/divisions/human-resources/title-ix/

NeoGov BoardDocs Mitel Voice Mail Gender Equity/Title... CAMPUSIX2016_Ele... Merced College - Fl... myhr-transactions-a...

Google Chrome isn't your default browser Set as default

MERCED COLLEGE

Enroll MC Portal Canvas Menu

HOME / ABOUT MERCED COLLEGE / DIVISIONS / HUMAN RESOURCES /

Title IX & Complaints

EXPLORE THIS SECTION

[Title IX Definitions](#) [Retaliation](#) [Harassment/Discrimination/Sexual Misconduct \(not Title IX\)](#) [Whistleblower Protection](#)

NEW TITLE IX REGULATIONS

Our District and the Title IX Coordinator are aware of and acknowledge the new Title IX regulations effective on August 1, 2024. Our Title Coordinator and team received training on these new regulations on July 15-18, 2024. Our training materials are available for review at the links below. We are in the process of reviewing and revising our Title IX policies and practices, after input from our stake-holders in order to implement a fair, thorough and impartial Title IX complaint process and District response. As always if you want to report a sexual harassment incident, please reach out to our Title IX Coordinator, Kelly Avila, at the Office of Human Resources, Administration Building, Merced Campus or via email at kelly.avila@mccd.edu or phone at 209-384-6102.

- [Title IX Coordinator Foundations Sex-Based Harassment for Higher Education 2024](#)
- [Investigation Skills and Report Writing for Higher Education](#)
- [Intermediate Interviewing Techniques & Strategies for Higher Education](#)
- [Advanced ADA/Section 504 for Higher Education](#)

What is Title IX?

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits sex discrimination in education programs or activities that receive federal funding, including athletic programs. Title IX holds schools liable for sex...

Agencies Responsible for Enforcing T9 Laws

| Agency | Students | Employees |
|--|----------|-----------|
| OCR: Department of Education Office for Civil Rights | X | |
| CCCCO: California Community Colleges Chancellor's Office | X | X |
| CRD: Civil Right Department (was DFEH) | | X |
| EEOC: Equal Employment Opportunity Commission | | X |

Responsibilities

Responsibilities of the Title IX Coordinator

Coordinator has ultimate oversight of:

- a) Oversees compliance with Title IX process
- b) Accepts reports & complaints
- c) Sends Notice(s) of Allegations
- d) Coordinates supportive measures
- e) Initiates grievance procedures and/or informal resolution
- f) Assigns investigator-decision maker
- g) Considers dismissal options
- h) Implements training
- i) Maintains records
- j) etc.

Coordinator MAY:

- a) Facilitate an informal resolution process
- b) Consult with personnel responsible for providing supports to students with disabilities
- c) Investigate & make decision (**NOT** sanctions)
- d) Review and/or oversee process for investigative reports, written decisions, & appeal decisions
- e) Draft and/or issue letters of outcome after written decision issued
- f) Delegate specific duties to designees

Knowledge and Reporting

Under SB 493 (2019), a postsecondary institution shall be presumed to know of sexual harassment if a **responsible employee** knew or, in the exercise of reasonable care, should have known, about the sexual harassment.

You are the responsible employee!

Knowledge and Reporting

Non-Confidential Employees

Employees who (1) have authority to institute corrective measures, (2) are in administrative or leadership positions, (3) teaching positions, or (4) advising positions are responsible to report to Title IX Coordinator. Mandatory for all managers.

All Other Employees

Should report to Title IX Coordinator **or** Provide contact information for Title IX Coordinator and information about how to file a complaint

Confidential Employees

- Confidential employees are employees whose communications are privileged or confidential under Federal or State law.

Examples may include counselors, psychologists, and/or psychiatrists who receive information while performing privileged or confidential duties

What is Sexual Misconduct?

- A broad term that encompasses sexual harassment, sexual assault, relationship violence, stalking, and sexual exploitation.

Sex-based acts under Title IX (other than harassment)

- Sexual assault
 - Forcible: Any sexual act directed against Complainant, forcibly, against Complainant's will, or without consent, including rape, sodomy, sexual assault with an object, and fondling
 - Nonforcible: Offenses that do not involve force where the Complainant is incapable of giving consent, including statutory rape and incest
- Dating violence
- Domestic violence
- Stalking

Overview of Laws and MCCD Policies and Procedures

California Education Code

66270.

No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code or any other characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, including immigration status, in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

Title 5 Regulations (Definitions)

§ 59311. Definitions.

For purposes of this subchapter, the following definitions shall apply:

- (a) "Appeal" means a request by a complainant made in writing to a community college district governing board pursuant to section 59338 and/or to the Chancellor's Office pursuant to section 59339 to review the administrative determination of a community college district regarding a complaint of discrimination.
- (b) "Complaint" means a written or verbal statement meeting the requirements of section 59328 that alleges unlawful discrimination in violation of this subchapter.
- (c) "Days" means calendar days.
- (d) "Unlawful discrimination" means unfair or unequal treatment of an individual (or group) based upon an actual or perceived characteristic related to ethnic group identification, national origin, immigration status, religion, age, sex, gender, gender identification, gender expression, military and veteran status, marital status, medical condition, race, color, ancestry, sexual orientation, physical or mental disability, or any other characteristic protected under applicable federal or state law.

Title 5 Regulations (District Responsibility)

§ 59320. District Responsibility.

Community college districts must ensure that their programs and activities are available to all persons without unlawful discrimination. Community college districts shall investigate complaints of unlawful discrimination in their programs and activities, in accordance with the provisions of this subchapter.



Board Policies & Administrative Procedures

BP/AP 3410, Nondiscrimination

BP/AP 3430, Prohibition of Harassment

BP/AP 3433, Prohibition of Sexual Harassment under Title IX

AP 3435, Discrimination and Harassment Complaints and Investigations

BP 3410, Nondiscrimination

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, **and each individual who represents the District**, shall provide access to its services, classes, and programs without regard to national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

BP 3430, Prohibition of Harassment

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. **The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence.** It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics.

AP 3435, Complaints and Investigations

The law prohibits coworkers, supervisors, managers, and third parties with whom an employee comes into contact from engaging in harassment, discrimination, or retaliation. Any person who has suffered harassment, discrimination, or retaliation may file a formal or informal complaint of harassment, discrimination, or retaliation, or who has learned of harassment, discrimination, or retaliation.

Investigation/ “Grievance” Procedure

Supportive Measures

- “No contact” order
- Transportation/work/class alternatives
- Increased security or monitoring
- Campus escort services
- Leaves of absence, extensions of time, or other course related adjustments

General Requirements

District must provide for prompt and equitable resolution complaints of sex discrimination against a person.

The following persons have a right to make a complaint:

- Complainant
- Parent/guardian/authorized legal representative of Complainant
- Title IX Coordinator
- For sex discrimination complaints that do not include sex-based harassment: any student, any employee, or any person other than a student or employee who was participating or attempting to participate in the education program or activity at the time of the alleged discrimination

Basic Requirements

District must treat Complainants and Respondents equitably

- Objective evaluation of all relevant evidence
- Cannot make credibility decisions based on a person's status as Complainant, Respondent, or Witness
- Must presume Respondent is not responsible until a determination is made
- Establish reasonably prompt time frames for stages of process and explain delay
- Take reasonable steps to protect the privacy of the parties and witnesses, without restricting the ability of the parties to obtain and present evidence
- Exclude impermissible evidence and questions
- If have more than one grievance procedure, written grievance procedures shall explain how the district will consistently determine which procedure applies

Steps of Investigation

- Notice of Allegations
- Dismissal of a Complaint, if applicable
- Complaint Investigation
 - Questioning of Parties and Witnesses
- Live Hearing
- Written Determinations
- Appeals

Quiz

True or False

Title IX protects students, employees, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training program sponsored by the District at another location.

Quiz

True!

Title IX protects students, employees, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training program sponsored by the District at another location.

Title IX does not apply to misconduct that is unrelated to the College (ex. domestic violence that occurs in the home) unless a nexus exists.

Quiz

True or False

The parties to a Title IX complaint (or any other College-related complaint) are called Victim and Accused.

Answer

False!

The parties to a Title IX complaint (or any other College-related complaint) are called ~~Victim~~ Complainant and ~~Accused~~ Respondent.

Quiz

True or False

A hostile work environment includes when coworkers don't like each other and make everyone else miserable.

Quiz

Probably False:

A hostile work environment is ~~includes when coworkers don't like each other and make everyone else miserable.~~ unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment).

