

Orange County School of the Arts
Title IX Policy

The Orange County School of the Arts (“OCSA”) is committed to maintaining a learning environment free from harassment, intimidation, or insult on the basis of an individual’s actual or perceived sex, sexual orientation, gender, gender identity, or expression.

Title IX of the Education Amendment Act of 1972 (“Title IX”) prohibits discrimination on the basis of sex, including sexual harassment, in OCSA’s education programs and activities.

Title IX Coordinator

OCSA designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX OCSA may designate supplemental alternative Title IX Coordinator as necessary. The Title IX Coordinator may be contacted at:

OCSA Assistant Principal of Student Supervision
1010 North Main Street, Santa Ana, CA 92701
(714) 560-0900, ext. 6400
abbe.levine@ocsarts.net

OCSA shall notify students, parents/guardians, employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the Title IX Coordinator. (34 CFR 106.8)

Prohibited Conduct

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual’s employment, academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact on the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through any OCSA program or activity.

Examples of types of conduct which are prohibited by OCSA and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions.
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions.
3. Graphic verbal comments about an individual's body or overly personal conversation.
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature.
5. Spreading sexual rumors.
6. Massaging, grabbing, fondling, stroking, or brushing the body.
7. Touching an individual's body or clothes in a sexual way.
8. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex.
9. Displaying sexually suggestive objects in the educational or work environment.
10. Sexual assault, sexual battery, or sexual coercion.
11. Electronic communications containing comments, words, or images described above.

Prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of OCSA policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

Notifications

A copy of OCSA's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year. (Education Code 48980; 5 CCR 4917)
2. Be displayed in a prominent location in the main administrative building or other area where notices of OCSA rules, regulations, procedures, and standards of conduct are posted. (Education Code 231.5)
3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a

charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

4. Be posted in a prominent location on OCSA's web site in a manner that is easily accessible to parents/guardians and students. This shall include the name or title, office address, email address, and telephone number of the employee(s) designated as OCSA's Title IX Coordinator. (Education Code 234.6; 34 CFR 106.8)
5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session. (Education Code 231.5)
6. Appear in any OCSA publication that sets forth the school's comprehensive rules, regulations, procedures, and standards of conduct. (Education Code 231.5)
7. Be included in any handbook provided to students, parents/guardians, employees, or employee organizations. (34 CFR 106.8)

Reporting Complaints

A student, parent/guardian, or employee who believes that an individual has been subjected to sexual harassment by a student, employee, or third party is strongly encouraged to report the incident to a teacher, the principal, OCSA's Title IX Coordinator, or any other available school employee. Within one school day of receiving such a report, the principal or other school employee shall forward the report to OCSA's Title IX Coordinator. Any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report the observation to the principal or Title IX Coordinator, regardless of whether the alleged victim files a formal complaint.

When a report or complaint of sexual harassment involves off-campus conduct, the Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX Coordinator determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

When a verbal or informal report of sexual harassment is submitted, the Title IX Coordinator shall inform the student, parent/guardian, or employee of the right to file a formal written complaint in accordance with applicable OCSA complaint procedures.

Title IX Complaint Procedures

Complaints of sexual harassment shall be investigated and resolved in accordance with law and OCSA procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. Complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with OCSA's Title IX Policy for Sexual Harassment. Other sexual harassment complaints shall be investigated and resolved pursuant to OCSA's Uniform Complaint Procedures.

Complaints governed by Title IX allege that a person was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

1. An OCSA employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to OCSA's education program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the process for filing a formal complaint.

If the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations in which a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by OCSA. (34 CFR 106.30)

The Chief Executive Officer or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons receive training in accordance with 34 CFR 106.45.

Supportive Measures

Upon receipt of a report of Title IX sexual harassment, even if a formal complaint is not filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

Emergency Removal from School

On an emergency basis, OCSA may remove a student from OCSA's education program or activity, provided that OCSA conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If an OCSA employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint that did not occur in OCSA's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies OCSA in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer enrolled or employed by OCSA, or if sufficient Title IX circumstances prevent OCSA from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, the conduct may still be addressed pursuant to OCSA's Uniform Complaint Procedures as applicable.

Informal Resolution Process

When a formal complaint of sexual harassment is filed, OCSA may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. OCSA shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

OCSA may facilitate an informal resolution process provided that OCSA: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process.
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Formal Complaint Process

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. OCSA's complaint process, including any informal resolution process.
2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, OCSA investigates allegations about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process.
4. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence.
5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process.

During the investigation process, OCSA shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although OCSA may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate.
6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report.
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness.
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

9. After sending the investigative report to the parties and before reaching a determination regarding responsibility, afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

Written Decision

The Chief Executive Officer shall normally designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45) As necessary, an outside decision may be discussed.

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, OCSA shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30.
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of OCSA's code of conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions OCSA imposes on the respondent, and whether remedies designed to restore or preserve equal access to OCSA's educational program or activity will be provided by OCSA to the complainant.

6. OCSA's procedures and permissible bases for the complainant and respondent to appeal.

Appeals

Either party may appeal OCSA'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, OCSA 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 10 calendar days of receiving the determination, 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. Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

Remedies

When a determination of responsibility for sexual harassment has been made against the respondent, OCSA shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

Corrective / Disciplinary Actions

OCSA shall not impose disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

Discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Chief Executive Officer shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law.
2. Parent/guardian conference.
3. Education of the student regarding the impact of the conduct on others.
4. Positive behavior support.
5. Referral of the student to a student success team.
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law.

When an employee is found to have committed sexual harassment or retaliation, OCSA shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

Record-Keeping

The Chief Executive Officer or designee shall maintain for a period of seven years a record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any disciplinary sanctions imposed, any remedies provided to the complainant, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

The Chief Executive Officer or designee shall also maintain for a period of seven years all materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. OCSA shall make such training materials publicly available on its web site. (34 CFR 106.45)