Title IX Coordinator's Handbook

1999 Edition
TITLE IX COORDINATOR’S HANDBOOK

A Technical Assistance Resource for California Community Colleges

BY

THORPE, HENDRIX AND ASSOCIATES

1999 EDITION
ACKNOWLEDGMENTS

Nancy Davenport, Civil Rights Specialist for the Chancellor’s Office, California Community Colleges, was instrumental in making this Title IX Coordinator’s Handbook possible. This handbook is yet another example of her long term commitment to civil rights and gender equity. Her guidance and encouragement have been invaluable.

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PREFACE

Title IX of the Educational Amendments of 1972 reads in part, "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..."

Initially, Title IX and its implementing regulations were interpreted to mean that if an agency received any Federal funds it was obligated to avoid sex discrimination in all aspects of the institution. However, in 1984 Title IX was severely weakened when the United States Supreme Court found in Grove City College v. Bell that the prohibition against sex discrimination applied only to the specific program within the institution that received federal funds and not against the institution as a whole. Congress, in order to restore the original intent of Title IX and three other nondiscrimination statutes, enacted the Civil Rights Restoration Act of 1987. This Act, which mandated "broad, institution-wide application," strengthened Title IX.

In addition to Title IX and its implementing regulations, the Vocational Education Programs Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap (Vocational Education Guidelines) was developed to explain the civil rights responsibilities for recipients of federal funds that offer vocational education programs. It is important to understand that the Vocational Education Guidelines clarify and sometimes amplify Title IX coverage in vocational education programs, services and activities. The Office for Civil Rights and the Chancellor’s Office of the California Community Colleges both conduct reviews to monitor compliance using these guidelines. This handbook can help you prepare for such a review.

The State of California has also made a commitment to sex equity in the form of the California Education Code 200-264, which augments the federal sex equity legislation. One portion of the Education Code is often referred to as "California’s Title IX" and reads in part, "It is the policy of the State of California to afford all persons, regardless of their sex, equal rights and opportunities in the educational institutions of the state..."

An entire generation has come of age since the passage of Title IX. The concept of not discriminating on the basis of sex, that once was so radical, is now generally taken for granted by the educational community. Although it is generally accepted that sex discrimination has no place in the California Community Colleges, efforts are still needed to maintain, and in some cases attain, full compliance with Title IX. Since the passage of Title IX, the federal courts have, in a series of cases, clarified, refined and interpreted Title IX’s application. Sexual harassment and equity in athletics have begun to dominate the Title IX case law. In spite of the case law’s focus on athletics and sexual harassment, it is essential to concentrate on the broad range of protections provided by the Title IX regulations. This handbook will help you, the Title IX Coordinator, focus on that broad range of protections and ensure that your entire educational institution is free from sex based discrimination.
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INTRODUCTION
Enhancing Quality Education Through Equity

Title IX Coordinators, this handbook is for you:

- Even if you are your district/college’s first and only coordinator and have a file full of resources.

- If you inherited the job from your predecessor along with a file full of Title IX materials of unknown origin and of uncertain value.

- If you find a Title IX file and it only contains information on athletics and/or sexual harassment, ignoring other facets of the Title IX requirements.

- Especially if you were appointed to the job and the Title IX file is nowhere to be found and your predecessor seems to be a phantom.

- If you just discovered that you are the Title IX Coordinator and your district or college will have an Office for Civil Rights on-site compliance review for vocational education next week.

- If you are your institution’s most noted advocate, and you fully understand all the gender equity issues, but your knowledge about the specifics of Title IX coverage is less comprehensive.

The Title IX legislation was passed in 1972. Many districts and colleges made their best efforts to comply with the regulations in the ’70s. Others, however, instituted changes only in response to pressures, complaints and law suits. Whether your district/college resembles the former or the latter, or is somewhere in between, it is time to reassess how well your district/college has met its obligations under Title IX. This handbook is not intended to cover every single detail of the Title IX regulations, or to include an analysis of every related court case. It is, however, intended to address the broad range of issues that most frequently surface on community college campuses, as evidenced by violations cited during on-site civil rights reviews and complaint investigations.

This handbook is intended to provide you with an updated view of Title IX, within the context of the community college setting, and to promote the spirit of Title IX throughout your district and college(s). Further, it is designed to help you be prepared in the event that your district/college is selected for a civil rights or Title IX review. These reviews are conducted by both the Office for Civil Rights and the Chancellor’s Office of the California Community Colleges. The Chancellor’s Office reviews examine the overall institutional responsibility to comply with Title IX, with a specific focus on the vocational education programs and services.

Equity, which is an integral part of quality education, can only be achieved by instituting both the “letter” and the “spirit” of the law. Each section of this handbook is divided into two main segments. The first segment of each section addresses the “letter of the law,” or minimal
requirements to comply with the Title IX regulations. The second segment of each section covers the "spirit" of Title IX. This section includes actions not mandated by law that help create an educational environment where both women and men can achieve their full potential. Each section has a third segment called "Notes," which contains relevant legal references, legislative and regulatory information and other pertinent material.
SECTION 1
Coordinator Competencies

★★★★★
compliance check ✓ ✓ ✓ are you “legal”?

The Title IX Coordinator is:

- Well informed about all aspects of Title IX coverage and able to carry out its provisions.

- Able to verify that the district/college has Board of Trustees-approved policies covering nondiscrimination on the basis of sex and prohibiting sexual harassment. These policies must protect both students and employees.

- Familiar with all the steps in the complaint procedures for alleged sex discrimination, including sexual harassment.

- Prepared to explain the provisions of the complaint procedures and provide the proper complaint form(s) upon request.

- Able to coordinate the complaint process, and effectively ensure an impartial investigation of any complaints.

- Able to verify that the district/college has conducted a Title IX Self-Evaluation.

- Prepared for a comprehensive Title IX review by the Office for Civil Rights or a vocational specific review by either the Office for Civil Rights or the Chancellor’s Office of the California Community Colleges. (See Compliance Reviews under the “NOTES” segment at the end of this section.)

- Knowledgeable about the Title IX related provisions of the Carl D. Perkins Vocational Technical Education Act, 1998, and the Vocational Education Guidelines. (See Resources under the “NOTES” segment at the end of this section.)

- Maintaining a file of the agency’s Title IX documents and activities.

★★★★★
getting into the spirit of things...showing you care

A coordinator who exemplifies the spirit of Title IX:

- Provides leadership in instituting equitable policies and practices throughout the district/college.
• Implements staff in-service training programs on Title IX related topics, including sessions on sexual harassment.

• Routinely evaluates progress/status of Title IX compliance.

• Seeks out and provides the staff with information about equity resources, e.g., films, activities, classroom speakers, and available program models, etc.

• Collects print resources about gender equity for professional resource and library collections.

• Reinforces the district/college’s commitment to sex equity by the use of bulletins and memos which serve to encourage and/or support activities that foster gender equity, e.g., nontraditional career programs or special recognition of students and former students who have succeeded in fields nontraditional for their sex.

• Demonstrates a commitment to gender equity issues, as well as serves as a model of equitable behavior.

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NOTES—Coordinator Competencies

Compliance Reviews
In the event that the district/college is selected for a civil rights review, the Title IX Coordinator will be interviewed and asked to provide the documents listed in Appendix I.

Resources
Copies of the Title IX regulations and Vocational Education Guidelines should be in each coordinator’s resource file. They can be obtained from Nancy Davenport, Civil Rights Specialist, Chancellor’s Office of the California Community Colleges, 1107 9th Street, Sacramento, CA 95814-3607, (916) 327-5491 or the U.S. Department of Education Office for Civil Rights, 50 United Nations Plaza, Room 239, San Francisco, CA 94102, (415) 556-4275, (415) 473-7786 (TDD).
SECTION 2
Making the Formal Commitment

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compliance check ✓✓✓ are you “legal”?
(Title IX, §§ 106.3, 106.4, 106.8, 106.9, 106.31, 106.33)

A district/college has made the required formal commitment if it has:

- Adopted a policy stating that it does not discriminate on the basis of sex in its educational programs or activities. [§ 106.9]

- Adopted a separate policy prohibiting sexual harassment of students and employees.

- Developed complaint procedures, specifically designed for both students and employees, which provide the opportunity to resolve any issues of alleged sex discrimination. [§ 106.8] (See Selected Case Law and Complaint Process in the “NOTES” segment at the end of this section.)

- Developed a separate complaint procedure for sexual harassment issues. (That procedure must not require the complainant to confront the alleged harasser.) (See Selected Case Law and Complaint Process in the “NOTES” segment at the end of this section.)

- Appointed a Title IX Coordinator who is responsible for coordinating all Title IX related activities and investigating all complaints of sex discrimination, including sexual harassment. [§ 106.8]

- Signed and filed an Assurance Form, stating that the district/college will comply with all the requirements of Title IX. [§ 106.4] (See Assurances in the “NOTES” segment at the end of this section.)

- Systematically notified students, employees and the general public of the district’s nondiscrimination and sexual harassment policies. [§ 106.9; Vocational Education Guidelines (IV-O)] (See Section 3, “Getting Out the Word,” and Appendix II, “Public Notification Check List.”)

- Conducted a Title IX Self Evaluation designed to determine whether any district/college policies or practices are discriminatory on the basis of sex. [§ 106.3 (1)(b)]

- Amended/revised any policies and practices that were found to be discriminatory. [§ 106.3 (e)(2)]

- Modified any facilities that were not comparable for males and females. [§ 106.33]

- Taken steps necessary to overcome the effects of any discrimination. [§ 106.3 (e)(3)]
• Taken appropriate measures to enforce the prohibition against sexual harassment. (See Selected Case Law in the "NOTES" segment at the end of this section.)

• Established procedures to accommodate academic leave for pregnant students for the duration deemed medically necessary. [§ 106.40 (5)]

• Kept on file and available for review a description of any modification and/or steps taken to overcome effects of discrimination. [§ 106.3 (d)]

• Entered into contractual agreements only with entities that provide the district/college with a written assurance that it does not discriminate on the basis of sex. (Examples of such entities include contractors and subcontractors who provide services, including public and private schools and training centers; outside employers who employ or train students through job placement, cooperative work experience education, and clinical training; community based organizations that provide counseling, day care or other services; labor unions involved with the provision of apprenticeship training; and community organizations that use the agency’s facilities.) [§ 106.31 (b)(7,8); Vocational Education Guidelines, (VII)]

• Monitored institutional policies and practices to ensure compliance. [§ 106.8]

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A district/college demonstrates the spirit of Title IX if it has:

• Appointed a Title IX Coordinator at each campus if the district has more than one college.

• Allotted sufficient time and authority to the Title IX Coordinator to effectively conduct both required and affirmative activities.

• Enabled the Title IX Coordinator to attend in-service training.

• Institutionalized gender equity rather than approached gender equity as an afterthought.

• Reviewed and updated the Title IX Self Evaluation so that it reflects the increased understanding of gender equity issues since Title IX was originally enacted in 1972.

• Budgeted the time and funds necessary to train all personnel in both the letter and the spirit of Title IX, including a comprehensive informational program dealing with sexual harassment in the educational setting.

• Demonstrated its commitment to providing each student with an education free from discrimination by incorporating equity concepts into the curriculum and into both classroom and lab environments.
• Developed a cooperative working relationship with the coordinator in establishing open support of both the letter and spirit of Title IX.

• Provided day care services for the children of students. (See Selected Case Law under the “NOTES” segment at the end of this section.)

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NOTES—Formal Commitment

**Selected Case Law**

• The Title IX regulations make no specific mention of sexual harassment, but the federal courts have consistently held that sexual harassment is a form of sex discrimination which is covered under Title IX.

• An Appeals Court, in Robinson v. Jacksonville Shipyards, Inc. (1997), required a sexual harassment policy and complaint procedure which was separate and distinguished from the sex discrimination policy and procedure.

• The U.S. Supreme Court ruled in Meritor v. Vinson (1986) that it is impermissible for a sexual harassment complaint procedure to require a victim to file a complaint with the alleged harasser.

• In Snell v. Suffolk County (1998) an Appeals Court said that an employer must take all reasonable measures to enforce a policy of non-harassment.

• An Appeals Court in Kracunas, Pellett v. Iona College (1997) found that failure to provide a reasonable avenue for the filing of sexual harassment complaints, could result in the college being liable.

• Kariibian v. Columbia University (1993) stated that a college could be held liable if it “provided no reasonable avenue of complaint or knew of harassment and did nothing about it.”

• The Title IX regulations do not mention day care services, however, De La Cruz v. Tormey (1977) deals with a community college’s failure to provide campus day care for children of students. The court found that such students could assert a violation of Title IX in the context of a civil rights suit.

**Complaint Process**

• The educational institution must have a complaint procedure(s) for students and employees designed to resolve alleged sex discrimination, and a separate and distinct sexual harassment procedure. The procedure(s) for sex discrimination may be either Title IX specific, or cover all forms of alleged discrimination, i.e., discrimination based on race, disability, etc.
• Students, employees and the general public have the option to file a Title IX complaint at their district/college or with the Office for Civil Rights (OCR), 50 United Nations Plaza, Room 239, San Francisco, CA 94102, (415) 556-4275, (415) 437-7786 (TDD).

• The State of California’s statutes also prohibit sex discrimination. Students, employees and members of the community may file a complaint appeal with the Chancellor’s Office of the California Community Colleges using the provisions of Title 5 of the California Government Code, Article 3, § 59328. For more information, call the Legal Office of the Chancellor’s Office, (916) 327-5692.

• Employees may also use the Title VII complaint provisions administered by the Equal Employment Opportunity Commission (EEOC), (800) 827-2253 or TDD (800) 669-6820.

Assurances
All California Community Colleges have signed and filed their assurances with the former U.S. Department of Housing, Education and Welfare (HEW), now Department of Education; however, each time the Chancellor’s Office of the California Community Colleges reallocates federal funds, the district is required to sign an assurance that it is in compliance with the federal requirements.
SECTION 3
Getting Out the Word

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compliance check ✓✓✓ are you “legal”?
(Title IX, § 106.9: Vocational Education Guidelines, IV-0)

A district/college that has met its obligations to “get out the word,” can answer the questions below in the following manner:

• What Is Disseminated?
  - A statement which assures that the district/college does not discriminate on the basis of
    sex in accordance with the provisions of Title IX.
  - Information about the availability of a complaint procedure designed to resolve
    allegations of sex discrimination, with a brief description of the procedures that must be
    followed to file a complaint.
  - The Title IX Coordinator’s name, business phone number and address.
  - Information about the availability of this notice in a variety of alternative formats, such
    as Braille, large print and audio tape.

• Who Is Informed?
  - Students and employees.
  - The general public.
  - Applicants for admission.
  - Applicants for employment.
  - Unions or professional organizations that have labor relations contracts with the district.

• What Is Prohibited?
  - The district/college will not develop or use publications such as brochures, bulletins,
    schedule of classes, student/staff handbooks, etc., that suggest, by text or illustration that
    the district/college treats males and females differently.

• Where Does It Appear?
  - The Title IX information routinely appears in college materials, such as the schedule of
    classes, college catalog, brochures, student/employee handbooks, promotional,
    orientation and application materials, and job announcements.
  - A nondiscrimination clause must appear in all written contracts entered into with
    entities such as: contractors and subcontractors who provide services, including public
    and private schools and training centers; outside employers who employ or train
    students through job placement, cooperative work experience education, and clinical
    training; community based organizations that provide counseling, day care or other
    services; labor unions involved with the provision of apprenticeship training; and
    community organizations that use the district/college’s facilities.
• How Often Is It Distributed?
  – The district/college takes “continuing steps” to distribute its nondiscrimination policy via the publications and documents mentioned above. (See Selected Case Law under the “NOTES” segment at the end of this section.)

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A district/college that gets out the word with spirit:

• Prints nondiscrimination announcements and information about the availability of a complaint procedure that are clear, readable and eye-catching, rather than relying solely on notices written in often confusing legal language.

• Provides staff with in-service activities covering both the letter and spirit of Title IX.

• Works with student government leaders and other student organization officers to involve them in efforts to create an equitable, harassment free environment.

• Provides resources to student newspaper and yearbook staffs that offer insight into linguistic biases, stereotypical text and illustrations.

• Helps students/employees understand how they can seek redress for actions they believe to be unfair, and assures them that their concerns will be given full consideration.

NOTES—Getting Out The Word

Policy Notification Required by the Vocational Education Guidelines
See Appendix II for Public Notification Check List.

Selected Case Law
The U.S. Supreme Court in Gebser v. Lago Vista Independent School District (1998) upheld the Title IX requirement to have a policy against discrimination based on sex, and to have an effective “well publicized” complaint procedure to raise and resolve issues involving such discrimination, including sexual harassment. Further, educational institutions have a duty to “take prompt and effective action to equitably resolve complaints.”
SECTION 4
Equity in the Recruitment and Admissions Process

* * * * *
compliance check ✓ ✓ ✓ are you “legal”?
(Title IX, §§ 106.21–106.23, 106.35)

A district/college has complied with recruitment requirements and admissions obligations if it has:

• Established and applied criteria that are the same for males and females for admission to the college or to any of its specialized schools or programs. (See Selected Case Law in the “NOTES” segment at the end of this section.)

• Placed no numerical or proportional admission limits on either gender in any program or service.

• Established admission tests or criteria that do not have a disproportionately adverse impact on either sex, unless the test or criteria can be shown to be a valid predictor of success. (See Assessment in the “NOTES” segment at the end of this section.)

• Developed and adopted the use of application forms that avoid pre-admission inquiry about a person’s marital status.

• Distributed recruitment/promotional materials free from discriminatory text or illustrations.

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A district/college has demonstrated its spirit in recruitment and admission if it has:

• Used its data base to determine whether either males or females are underrepresented in the student population. (See Promotion/Recruitment in the “NOTES” segment at the end of this section.)

• Developed a recruitment program to attract members of the underrepresented sex, if applicable. (See Promotion/Recruitment in the “NOTES” segment at the end of this section.)

• Made affirmative efforts to reach specific groups that historically have been underrepresented in community college student populations, including older women, and single parents, particularly those from the area high schools who are enrolled in pregnant teen and single parent programs.
(Men are an underrepresented group on many campuses. This population should not be overlooked in the context of Title IX.)
Provided enrollment/admission assistance to the aforementioned groups, for example, special orientation sessions and assessment tests at community or high school sites where child care is provided or readily available.

NOTES—Recruitment and Admission

Regulatory References
Title IX, § 106.21 – Admission, § 106.22 – Preference in Admissions, § 106.23 – Recruitment; Vocational Education Guidelines, V-C.

Case Law
• In Cannon v. University of Chicago (1979) the U.S. Supreme Court held that notwithstanding Title IX’s failure to expressly authorize suits by individuals, a woman who, because of her gender, is denied admission to an educational program of an institution which receives federal financial assistance, could sue in federal court for violation of Title IX. This case established the principle that a student could use legal, as well as administrative, channels to resolve alleged discrimination.

• In Mississippi University for Women v. Hagan (1982) the U.S. Supreme Court held that a state-supported university’s policy excluding males from enrolling in a professional nursing school violated equal protection laws, and could not be justified under Title IX’s exemption for public undergraduate institutions with traditional single-sex admission policies.

Assessment
When a district/college uses the assessment component of the Matriculation Plan, the following questions must be addressed:
- Is a data collection system in place to measure whether or not there is any disproportionate impact on the basis of sex (race, color, national origin or handicap) as a result of the use of the assessment model?
- Are multiple assessment instruments used?
- Have these instruments been validated?
- Is there a systematic referral and remediation program for students who do not successfully meet minimal standards?
- Can it be demonstrated that this remediation can successfully prepare students to meet minimal standards?
- Is there an appeal process?

Promotion/Recruitment
• According to the Vocational Education Guidelines, promotional materials and activities for career-vocational education programs must be free from discriminatory text and illustration, as well as free from all forms of sex bias and sex-role stereotyping. For example, a program brochure that depicts one sex only, is biased and perpetuates sex-role stereotyping.
• On-site compliance review teams from both the Office for Civil Rights and California Community Colleges Chancellor’s Office, will require affirmative recruitment efforts if the underrepresented sex represents less than 20% of any vocational program enrollment.

• The Carl D. Perkins Vocational Technical Education Act, 1998, requires the district/college to make special efforts to reach under-served populations. Programs designed specifically to reach and serve single parents, displaced homemakers, single pregnant women and individuals seeking nontraditional careers, are consistent with both the letter and the spirit of Title IX.
SECTION 5
Counseling with Attention to Equity

### compliance check ✔ ✔ ✔ are you "legal"?
*(Title IX, § 106.36; Vocational Education Guidelines, V)*

A district/college that has complied with counseling requirements can assure that:

- Any disproportionate male/female enrollment patterns within any particular class or course of study are not the result of the assessment tools or process.

- Interest inventories cover the same occupations and interest areas for both males and females.

- Any counseling materials, practices or tests that are used for one sex only, or that are used differently for females and males, can be shown to be essential to the elimination of gender bias.

- Counseling departments have access to enrollment data, broken down by sex, for each course and program.

- The counseling staff has reviewed enrollment data to identify courses and programs that have an imbalanced male/female enrollment (a 20-80 ratio or greater).

- Steps have been taken to ensure that any of the imbalanced enrollment patterns are not the result of counseling action or inaction. *(See Enrollment Patterns in the "NOTES" segment at the end of this section.)*

- The counseling staff is well informed about programs with unique admission requirements, such as apprenticeship, law enforcement academies, nursing, etc. *(See Apprenticeship in the "NOTES" segment at the end of this section.)*

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A counseling department that exemplifies the spirit of Title IX is:

- Knowledgeable about the potential for gender bias in counseling practices, materials and tests.

- Able to recognize any remnants of gender bias that may still exist in counseling practices, materials and tests.

- Committed to the elimination of gender bias and stereotyping in the educational setting.
• Effective in assisting students to overcome their own gender bias or sex-role stereotyping that influence course selections and limit career options.

• Able to assist single parents, displaced homemakers and re-entry students in locating services and resources, such as day care, legal aid, transportation, support services, etc., that will better enable them to succeed in the community college setting.

• Knowledgeable about services available for the special needs populations mentioned above, through the college student services, other public agencies and community-based organizations.

NOTES—Counseling

Regulatory References
Title IX, § 106.36 – Counseling and Use of Appraisal and Counseling Materials; Vocational Education Guidelines, (V-A).

Enrollment Patterns
All on-site Title IX or Vocational Education Guidelines compliance reviews will require the counseling department to document that action has been taken to ensure that any imbalanced male/female enrollment patterns in vocational courses/programs are not the result of counseling actions or inactions.

Apprenticeship
On-site compliance review teams will need to be assured that students have sufficient information about the apprenticeship programs, enabling them to give the programs full consideration as viable vocational training options. This information should include an overview of any apprenticeship program offered through the district/college, as well as qualifying requirements, testing and application information. Students who have little or no information about a program, in effect, have no access.
SECTION 6
Equal Opportunity for Financial Assistance


compliance check ✓ ✓ ✓ are you "legal"?
(Title IX, §§ 106.33, 106.38; Vocational Education Guidelines, VI-B)

A district/college has met its obligations in administering its financial aid program if it has:

- Developed and implemented procedures to distribute financial assistance in a manner that does not discriminate on the basis of sex.

- Provided the same amount and type of financial assistance for both females and males.

- Applied the same standards for eligibility for both males and females with regard to marital or parental status.

- Avoided assisting or cooperating with any foundation, trust, agency, individual or organization which provides scholarships or grants in a manner which is discriminatory.

- Assured that the aggregate benefit from grants/scholarships that are gender specific, are equal for men and women. (See Scholarships under the “NOTES” segment at the end of this section.)

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A financial aid program that gets into the spirit:

- Works to distribute financial aid information to the populations in the most financial need.

- Works closely with re-entry and single parent programs to meet the special needs of those groups.

- Distributes financial aid information to the minority communities in the respective languages of those communities in order to reach minority women. (Minority women from communities with limited English skills are among the most underrepresented groups on the majority of campuses.) (See Distribution of Financial Aid Information under the “NOTES” segment at the end of this section.)

- Makes an effort to hire students for work study who are members of under-served populations.
NOTES—Financial Aid

Regulatory References
Title IX, § 106.33 – Financial Assistance, § 106.38 – Employment Assistance to Students; Vocational Education Guidelines, (VI-B).

Scholarships
Equal opportunity to benefit from financial aid is the issue relative to sex-specific scholarships. If there are no, or fewer, qualified applicants of one sex, grants may be awarded to all of the qualifying members of the other sex, even if the net benefits are not equal for females and males (e.g., There are eight sex-specific scholarships available for each sex. There are eight qualified female and six qualified male applicants. The college may award all eight of the female-specific scholarships, even though only six male-specific scholarships were awarded. Title IX simply requires equal opportunity).

Distribution of Financial Aid Information
Although Title IX does not require that information about financial aid be distributed to national minority language populations in the respective languages of those communities, the Vocational Education Guidelines do require such distribution. Documentation of the distribution of financial aid information in appropriate languages will be required during an on-site vocational education compliance review. Further, the Americans with Disabilities Act (ADA) requires that there be a process for providing financial aid information in a variety of alternative formats, e.g., Braille, audio tape, etc.
SECTION 7
Equal Opportunity and Treatment in Student Housing

What does compliance mean? Are you "legal"?
(Title IX, § 106.32; Vocational Education Guidelines, VI-C)

A district/college that provides housing for students has met its obligations if it has:

- Provided comparable facilities for males and females. (See Separate Housing Facilities under the "NOTES" segment at the end of this section.)
- Allocated rooms so that space availability for males and females is proportionate to the number of males and females applying for housing.
- Established housing fees that are equal for both sexes.
- Adopted and implemented house rules that are the same for females and males.
- Ensured that any agencies or individuals who work cooperatively to place students in off-campus housing do not discriminate on the basis of sex.
- Developed a process to assure that any off-campus housing that is designated exclusively for males or females is comparable in quality and available proportionate to the demand.

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A housing program that gets into the spirit has:

- Employed resident advisors who are aware of gender equity issues.
- Ensured that sex equity issues are part of the dorm agenda, e.g., sensitivity to sexual harassment, sex bias and sex role stereotyping.
- Informed students about their rights under Title IX and how to seek resolution of any sex discrimination or sexual harassment occurring in the college’s student housing.
NOTES—Housing

Regulatory References
Title IX, § 106.32 – Housing; Vocational Education Guidelines, (VI-C).

Separate Housing Facilities
Title IX allows separate housing for females and males.
SECTION 8
Equity in Health and Insurance Benefits and Services

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compliance check ✔✔✔ are you “legal”?
(Title IX, § 106.39)

A district/college that provides student medical insurance or medical services has met its obligations if it has:

• Reviewed the coverage of all student medical, hospital and accident insurance policies to determine that there is no sex discrimination inherent in qualifying criteria or coverage.

• Verified that any qualifying criteria or coverage that is based on marital or parental status is applied without regard to gender.

• Incorporated gynecological care into the student health package, if full medical services are provided.

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getting into the spirit of things...showing you care

A district/college that gets into the spirit has:

• Reviewed the provisions of Title IX that permit a college/district to provide some benefits or services, such as family planning, which may be used by one gender more than the other.

NOTES—Health

Regulatory Reference
Title IX, § 106.39 – Student Health Benefits.
SECTION 9
Access—All Students Welcome in Instructional Programs

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compliance check ✓ ✓ ✓ are you "legal"?
(Title IX §106.21, 106.23, 106.31, 106.34; Vocational Education Guidelines, IV)

A district/college that has complied with access requirements can assure that:

• All classes/programs, including physical education classes, are open to both males and females and are conducted on a coeducational basis. (See Case Law and Co-Educational Physical Education under the “NOTES” segment at the end of this section for specifics of the exception to the co-educational rule for contact sports.)

• Course titles and course descriptions do not state or imply that any course is offered exclusively for one sex.

• Course/program prerequisites and minimum competency standards do not exclude a disproportionate number of either females or males, unless the prerequisite has been shown to be a predictor of student success in the class.

• Tests for admission or participation in classes or programs, such as tests for minimal math and/or language skills and safety exams, do not exclude or discourage a disproportionate number of either males or females.

• Enrollment patterns have been examined to identify underrepresentation of males/females in program areas and major fields of study.

• Program promotional materials are free from discriminatory text or images.

• Promotional activities for vocational education programs are used to attract members of the underrepresented sex, when data indicates the need. (See Promotional Activities in the “NOTES” segment at the end of this section.)

• The district/college has taken steps to ensure that all physical education classes are open to both females and males. (See Co-Educational Physical Education in the “NOTES” segment that follows, and Section 14, “Providing an Equitable Athletic Program,” that appears later in this handbook.)

• Vocal music classes are open to both males and females. Vocal music classes are permitted, however, to have an admission requirement based on vocal range, which results in classes of one or predominantly one sex.
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An instructional staff that has spirit:

- Encourages all students to explore the full range of options in the selection of a course of study and to reject sex-role stereotyping as a basis for course selection.

- Examines course content and classroom atmosphere to ensure that neither males nor females view the course as exclusively for females or exclusively for males.

Notes—Access to Instructional Programs

Regulatory References
Title IX, §106.21 - Admissions, §106.23 - Recruitment, §106.31 - Educational Programs and Activities, §106.34 - Access to Course Offerings; Vocational Education Guidelines, (IV).

Selected Case Law
In Mississippi University for Women v. Hagan (1982) the U.S. Supreme Court held that a state supported university's policy excluding males from enrolling in a professional nursing school violated equal protection laws, and could not be justified under Title IX's exemption for public undergraduate institutions with traditional single-sex admission policies.

Promotional Activities
According to the Vocational Education Guidelines, all promotional materials for career-vocational education programs must not only be free from discriminatory text and images, but must also be free from sex bias and sex-role stereotyping. Under some circumstances where there is gross underrepresentation or there has been a history of exclusion, special recruitment efforts will be required to attract members of the underrepresented group.

Co-Educational Physical Education
- Title IX permits, but does not require, the separation of males and females in athletic/physical education activities involving bodily contact. The Title IX regulations specify wrestling, boxing, ice hockey, football, and basketball as contact sports. It may be worth noting that some federal Appellate rulings have, in some cases, upheld the right of the excluded gender to participate. These rulings have been based on constitutional principles rather than on Title IX.

- Students may be grouped by ability for physical education instruction. A person's ability level must be determined by objective standards, established and applied without regard to gender.
SECTION 10
Equity within Instructional Settings

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compliance check ✔ ✔ ✔ are you "legal"?
(Title IX §106.1; Vocational Education Guidelines, VI)

The requirements to provide equitable instructional programs have been met when the instructional and supervisory staffs:

• Have the same expectations for both sexes in academic performance.

• Interact equally with males and females in lectures, labs, office meetings, etc.

• Give equal weight to both males and females for their academic achievement, cooperativeness and effort, when calculating grades and giving positive verbal reinforcement.

• Refrain from doing projects or assignments for students based solely on their gender (e.g., a tailoring instructor sews in a zipper for a male, or an auto shop instructor changes spark plugs for a female, based on the assumption that the student is less adept because of his or her gender).

• Manage the class/lab so that each student has equal access to materials, tools and equipment.

• Manage facilities to ensure that males and females have equal access to any locker and changing areas for shop/lab classes.

• Maintain an environment that is free from sex discrimination, including sexual harassment. (See Sexual Harassment and Liabilities in the “NOTES” segment at the end of this section.)

• Intervene if groups of males or groups of females exclude members of the other sex from required class or lab activities. (See Sexual Harassment in the “NOTES” segment at the end of this section.)

• Apply a single standard of conduct for females and males.

• Establish and enforce the same standards for safety and/or sanitation for both men and women (e.g., all students with hair a certain length must wear a hair net for food preparation, or when lab coats, coveralls, or uniforms are required, all students must wear them).

• Offer and conduct co-educational physical education classes. (However, participation in wrestling, ice hockey, boxing, football, basketball and any other bodily contact sport may be conducted as single sex activities.)
• Conduct physical education activities in a manner that does not have an adverse effect on either sex.

• Cooperate to make certain that male and female students have equal access to all facilities, including weight equipment, whirlpools, swimming pools, etc.

Four Star Excellence: getting into the spirit of things...showing you care

A staff that gets into the spirit of things within the instructional setting:

• Uses visual images and language that are free from stereotyping and that help expand students’ perceptions of their career and life options.

• Uses gender neutral terms, such as members of congress, mail carrier, firefighter, police officer, flight attendant, rather than congressmen, mailman, fireman, policeman and stewardess.

• Avoids using the generic “he,” but rather incorporates both sexes when using pronouns in written material and in speech.

• Helps students identify examples and understand the impact of sex discrimination, sexual harassment and sex-role stereotyping.

• Avoids comparing males and females with respect to academic performance, accomplishments, attributes and attitudes.

• Provides understanding and support for students in classes that are nontraditional for their sex.

• Organizes classes designed to foster male/female cooperation rather than male/female competition.

• Ensures that any competition which is an integral part of the instructional program is not predicated on “boys against the girls.”

• Seizes the “teachable moment” to help students confront their own sex-role stereotyping and gender biases.
NOTES—Equity in Instructional Settings

Regulatory References
• Title IX, §106.31 – Education Programs and Activities.

• Sexual harassment is also prohibited by the California Education Code, § 212.5. Individuals who allege sexual harassment in any programs and activities within the California Community College system, may seek remedies available under Title 5 of the California Government Code, Article 3, § 59328.

Selected Case Law
• Bleicker v. Ohio State University (1980) is a case of a former veterinary medicine student who sought to reverse her dismissal from the university for professional misconduct and academic insufficiency as a denial of due process and a violation of Title IX. The court found no violation of her due process rights and that the dismissal was based on her violation of the school’s honor code.

• For additional case law references, see Liability and Sexual Harassment below.

Liability
In Wood v. Strieff (1975) the U.S. Supreme Court ruled that an instructor or other school employee could be held monetarily liable for denying the civil rights of students or employees.

Sexual Harassment
An abbreviated view of the evolution of sexual harassment cases having application to the classroom setting follows:

• Sexual harassment is not specifically mentioned in Title IX, however, a federal court in Alexander v. Yale University (1977), ruled that sexual harassment is a form of sex discrimination under Title IX. Sexual harassment of students is covered by Title IX, while sexual harassment of employees is covered by Title VII.


• The Supreme Court in Franklin v. Gwinnett (1992) applied “the same rule prohibiting sexual harassment of employees, to students who are harassed by a teacher.”

• The Appeals Court in Kurbian v. Columbia University (1993) found that “college students should not receive less protection from conduct that is shown to be harassment, than do employees in the workplace.”
• In Kinman v. Omaha Public School District (1996) an Appeals Court held that "there was institutional liability in sexual harassment cases involving a teacher's harassment of a student."

• The Court of Appeals in Oona v. McCaffrey (1998) found that a failure to take steps to prevent sexual harassment of a student by other students may be institutional discrimination on the basis of gender under Title IX, and that the instructor could be liable for failure to remedy the hostile environment created in the classroom.
SECTION 11
Cooperative Education/Clinical Training/Other Programs Provided by Outside Entities

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(Title IX, §§ 106.31 (d), 106.38; Vocational Education Guidelines, VII)

A district/college has met its obligations to provide access to cooperative education, clinical training, and other programs provided by outside entities, if it has:

- Formed cooperative arrangements, for the purpose of serving, training, educating or employing students, only with entities or individuals who agree in writing not to discriminate on the basis of sex. (This would include, but is not limited to, apprenticeship training, cooperative education, medical clinical training, private education, such as that which is provided by cosmetology schools, adult education programs, educational programs in penal institutions, the CALWorks program, day care providers, social services, etc.) (See Selected Case Law and Liability under the “NOTES” segment at the end of this section.)

- Established agreements which assures that females and males have an equal opportunity to benefit from services and to participate in training, educational or employment programs run in whole or in part by public agencies, private entities or individuals. (See Contracts under the “NOTES” segment at the end of this section.)

- Taken measures to ensure that males and females are not treated differently based on their family status, marital or parental status, or their potential marital or parental status.

- Maintained practices that provide both females and males with an equal opportunity to benefit from services or to participate in training, educational or employment programs provided in whole or in part by cooperating public agencies and private entities. Attention should be given to the recruitment materials, application forms, test date notices, admission criteria and testing materials and procedures.

- Maintained practices that assure females and males receive equal treatment throughout the program, to include assurances that the environment is free from sex discrimination, including sexual harassment.

- Taken measures to ensure that both females and males are able to participate equally in all phases of the program.

- Made certain that pay scales or other benefits are equitable, and that job assignments are not made on the basis of sex.
• Terminated any agreements with any entities that have been found to discriminate, or that refuse to cooperate in assuring that all phases of its program or service are free from discrimination.

• Avoided aiding any private or public organization that discriminates on the basis of sex.

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Cooperative education/clinical training/other programs provided by outside entities that exemplify the spirit of Title IX:

• Conduct in-service training for district/college personnel who have responsibilities for initiating and implementing cooperative training/education programs, including topics on legal obligation, shared liability, and skills to identify discrimination, bias and stereotyping in the work place. (See Liability under the “NOTES” segment at the end of this section.)

• Allow for adequate staff time to fully comply with legal obligations.

• Work with unions that provide apprenticeship programs in cooperation with the district/college to help recruit applicants of the underrepresented gender.

• Develop a community information campaign designed to help make employers sensitive to gender equity issues.

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NOTES—Outside Entities

Regulatory References
Title IX, § 106.3 (d) – Education Programs and Services, § 106.38 – Employment Assistance to Students; Vocational Education Guidelines, (VII).

Selected Case Law
• In Lam v. Curators of the University of Missouri at Kansas City Dental School (1997) the Court of Appeals found that the prohibitions against gender discrimination were applicable to all educational programs or activities of an institution receiving federal financial assistance.

• Canterino v. Barber (1983) deals with female inmates in a penal institution who were denied access to many vocational programs that were available to the male prisoners. The court found sex discrimination in the limited availability of vocational courses to women, in violation of both equal protection and Title IX. They further held that it was not necessary to establish proof of an intent to discriminate to establish the liability of prison officials. Since there are
cooperative vocational training programs between the community college system and the penal system, this case is noteworthy.

**Liability**

- Districts/colleges share liability with the cooperating entity, or individual, if a student's civil rights have been violated in any phase of a program that is run under a cooperative agreement.

- A “hold harmless” clause in the contract does not necessarily insulate the district/college from liability, particularly if the district has not met its obligation to assure that the program or activity is free from discrimination.

**Contracts**

**Re: all student on-the-job placements:** The Vocational Education Guidelines, (VII-A) requires that if a district/college enters into a written agreement for the referral or assignment of a student to an employer, the agreement must contain an assurance from the employer that students will be accepted and assigned to jobs and otherwise treated without regard to sex, race, color, national origin or disability.

**Re: apprenticeship programs:** The Vocational Education Guidelines, (VII-B) requires that if a district/college enters into a written agreement for the provision of apprenticeship training of students or union members, the agreement must contain the assurance from the union that it does not engage in discrimination against its members or applicants. Further, the agreement must assure that training will be offered and conducted free from discrimination.

These contracts are routinely reviewed during on-site civil rights compliance reviews that are conducted by either a vocational education compliance team, under contract with the California Community Colleges Chancellor's Office, or the Office for Civil Rights.
SECTION 12
Equity in Employment Assistance to Students

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compliance check ✔ ✔ ✔ are you “legal”?
(Title IX, § 106.38; Vocational Education Guidelines, VII)

A district/college has met its obligations to provide equitable employment assistance if it has:

• Taken measures to assure that students are referred only to employers who do not discriminate in any of their employment practices.

• Avoided referring students to any agency or organization which discriminates in employment on the basis of sex.

• Established an understanding with employers using the college placement services, that requests for the referral of students of a specific gender will not be honored, unless it is a job with “sex as a bona fide occupational qualification,” e.g., locker room supervisor or a camp cabin counselor.

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A placement program has the spirit if it has:

• Instituted job development programs to increase the number of nontraditional job opportunities for students.

• Established referral procedures designed to make support services available to single parents, displaced homemakers and students who are placed in nontraditional jobs.

NOTES—Employment Assistance to Students

Regulatory References
Title IX, § 106.38 -- Employment Assistance to Students; Vocational Education Guidelines, (VII).
SECTION 13
Curricular Materials with Attention to Equity Issues

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compliance check ✓ ✓ ✓ are you legal?
>Title IX, § 106.41

A district/college has met its obligation when the instructors who teach career planning and exploration courses:

• Select text books that have no discriminatory text or images.

• Avoid curricular materials that perpetuate sex-role stereotyping.

• Choose materials that help students confront their own sex-role stereotyping which influences their course selections and limits their career options.

NOTE: Career planning and exploration courses are considered counseling functions and therefore their content and curricular materials are subject to the Title IX regulations. However, the selection of textbooks and supplemental materials for all other courses is left to the states, local education agencies or individual instructors, and is not covered by Title IX.

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Instructors and librarians who get into the spirit of things:

• Avoid selecting materials that:
  – Describe women in terms of their appearance or marital and family status, while describing men in terms of accomplishments or titles, e.g., Sandra Day O’Connor, wearing a blue suit under her short judge’s robe on the first day ... and Bill Gates, CEO of ...
  – Indicate by text or illustration that the boss or the professional will be a man and his assistants, secretaries or clerks, etc., will be female.
  – Communicate that jobs have gender, e.g., all construction workers and doctors are male and all clerical workers and nurses are female.
  – Exclude women’s accomplishments and contributions or include only an occasional token woman.
  – Relegate topics about women in an isolated section.
  – Use condescending terms when referring to women’s accomplishments, e.g., a topic heading “Rebels in Petticoats” to describe the women’s suffrage movement. (Consider whether it would be acceptable to refer to the “Boxer Short Rebellion” in a text book.)
  – Use the generic male terms, e.g., Early Man, business man, fireman, etc.
- Depict females in passive roles while males have active roles.
- Depict women only as the caregivers.

• Assign activities in social science and other appropriate courses of study that help students learn to identify examples of sex discrimination in textbooks, career materials, trade journals, newspapers, TV, movies, popular songs, etc.

• Select audio visual materials that are free from gender bias and stereotyping.

• Take advantage of an unexpected circumstance that can be used to introduce the topic of discrimination, bias or stereotype.

• Select new titles for the library collections that:
  - Increase the number of biographies about women who are noted for their own accomplishments.
  - Address the changing roles of men and women in the home, community and in the work place.
  - Cross reference the names of women who are in collected biographies, to make optimum use of existing resources.

• “Weed out” antiquated library materials that are discriminatory, biased or stereotypical.

• Use the same standards for selecting supplemental publications and bulletin board displays that are used for library and curriculum materials.

NOTES—Textbooks and Curricular Materials

Regulatory Reference
Title IX, § 106.42 – Textbooks and Curricular Materials.
SECTION 14
Providing an Equitable Athletic Program

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compliance check ✔ ✔ ✔ are you “legal”?
(Title IX, § 106.41)

A district/college has complied with the letter of the law if it has:

• Organized the athletic program in a manner that assures that no person will be excluded from participation, denied benefits, treated differently or in any way be discriminated against on the basis of gender in the program’s activities.

• Provided athletic opportunities for men and women that are substantially proportionate to the male/female college enrollment. The selection of sports and the levels of competition should effectively accommodate the interests and abilities of both men and women. (See Case Law under the “NOTES” segment at the end of this section.)

• Conducted periodic surveys to determine whether the athletic program is responsive to the interests of men and women. (See Case Law under the “NOTES” segment at the end of this section.)

• Developed a funding formula to ensure that the ratio of funding for the men’s and women’s athletic programs are equal to the ratio of male/female participation. (See Case Law under the “NOTES” segment at the end of this section.)

• Provided equipment of comparable quality and in a quantity that is proportionate to the participation of each gender.

• Scheduled comparable game and practice times that are fair to both male and female athletic teams.

• Made provisions for equal travel and per diem allowances for male and female athletes.

• Provided equal opportunities for female and male athletes to receive coaching and tutoring.

• Budgeted resources to provide equal compensation for coaches and tutors of male and female athletes.

• Provided comparable locker rooms and facilities for both practice and competition.

• Arranged for comparable medical and training facilities and services.

• Provided comparable housing and dining facilities and services.
• Promoted men’s and women’s teams and athletes through comparable publicity efforts.

• Developed an award system for athletic scholarships or grants in aid that provides reasonable opportunities for both females and males, proportionate to the number of students of each gender participating in intercollegiate athletics.

• Established and implemented practices that assure that no person, on the basis of gender, is excluded, treated differently or otherwise discriminated against in the awarding of any athletic scholarships or grants in aid.

• Provided comparable support for both male and female teams, to include such support as bands, pep squads at competitive events and coverage in student publications.

• Made a commitment to abide by the letter of the law, regardless of any rules or regulations of any association or league that may limit eligibility or participation of any of the district/college’s students on the basis of gender.

• Provided equal opportunity in intramural and club athletics activities regardless of gender.

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An athletic program that exhibits the spirit of Title IX has:

• Developed a promotional program to encourage increased participation of women in the college’s sports program.

• Worked effectively with any community groups that have traditionally supported a men’s sports program, to foster equitable support for the women’s program.

• Made special efforts to encourage the media to acknowledge the accomplishments of the women athletes and women’s teams, as well as the men’s teams.

• Developed a public information program that is focused on the need to provide comparable coverage for males and females that is free from biased or stereotypical text or images.
NOTES—Athletics

Regulatory Reference
Title IX, § 106.4 – Athletics.

Selected Case Law
- A Federal Appeals Court in Roberts v. Colorado State University (1993), held that a women’s intercollegiate athletic program must receive the same incidental benefits accorded other varsity teams. Furthermore, in determining whether an educational institution has met the requirements of Title IX, there must be “substantial proportionality” between female athletic participation and female undergraduate enrollment.

- The Appeals Court in Cohen v. Brown University (1993) found that a Title IX plaintiff could make a case of athletic discrimination by proving female numerical disparity coupled with female interest in participating on intercollegiate sports teams.

- Burkey v. Marshall County Board of Education (1981) held that a school district policy restricting coaching positions for boys’ sports to males was discrimination on the basis of sex. Further, the district’s practice of paying female basketball coaches only half of what it paid male basketball coaches was an unlawful employment practice.
SECTION 15
Equal Opportunity and Treatment in Employment

 compliance check ✓ ✓ ✓ are you “legal”? (Title IX, §§ 106.51–106.61; Vocational Education Guidelines, VIII)

A district/college has met its obligation to comply with Title IX in employment if it has:

- Developed and implemented procedures to assure that there is no discrimination on the basis of sex in: recruitment, hiring, upgrading, promotion consideration, awarding of tenure, demotion, transfer, layoff, application of any nepotism policies, and the right of return from layoff. (See Selected Case Law under the “NOTES” segment at the end of this section.)

- Taken all necessary action to assure that the work place is free from all forms of sexual harassment. (See Sexual Harassment under the “NOTES” segment at the end of this section.)

- Avoided any pre-employment inquiry into an applicant’s marital status.

- Made affirmative efforts to recruit the underrepresented gender.

- Established employment criteria that do not have a disproportionately adverse effect on either men or women, unless such criteria can be shown to be a valid predictor of success on the job, and no alternative test is available.

- Avoided job classifications that are identified as being for males or for females, unless gender is a bona fide occupational qualification, such as a locker room supervisor.

- Established salary scales that pay men and women the same wage for jobs that require equal skill, effort and responsibility, and which are performed under similar conditions.

- Provided a fringe benefit package that is free from discrimination on the basis of gender, to include equal coverage of spouses and dependents, equal contribution requirements, equal retirement standards and compensation.

- Developed policies that treat men and women the same with regard to any leave to care for children or dependents, sick leave and selection for sabbaticals.

- Extended the temporary leave benefits, in the event that there is no special pregnancy leave policy, to include conditions of pregnancy, childbirth, termination of pregnancy or temporary disability resulting from the aforementioned conditions.

- Reinstated employees who return to work from pregnancy leave, within a reasonable period of time, in a comparable position, without decrease in pay or loss of promotional opportunity.
• Treated men and women the same with regard to marital status, head of household status, parental or potential parental status.

• Implemented employment practices that do not discriminate against an employee or potential employee on the basis of pregnancy, childbirth, termination of pregnancy or recovery resulting from the aforementioned conditions.

• Avoided entering into any collective bargaining agreements that have the result of discriminating on the basis of sex.

• Organized employer-sponsored activities, including recreational or social events, in a manner that does not discriminate on the basis of sex.

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An employment program that exemplifies the spirit of Title IX has:

• Implemented an active recruitment effort to attract the underrepresented gender.

• Established intern and/or mentoring programs and in-service programs to help members of the underrepresented gender to prepare for advancement.

• Provided special support for employees who are employed in jobs that are nontraditional for their gender.

• Implemented a comprehensive in-service program for all employees designed to ensure that the district and campus environments are free from all forms of sexual harassment.

NOTES—Employment

Regulatory References
Title IX, §§ 106.51–106.61 (it would be instructive to note that although employment is covered under Title IX, employment-related discrimination disputes are more frequently resolved with remedies available through Title VII); Vocational Education Guidelines, (VIII).

Selected Case Law
• Nagel v. Avon Board of Education (1983) is a sex discrimination case of an unsuccessful female applicant for an appointment as chairperson of the science department. The court held that the appointment procedure was gender neutral and that the appointment was based on legitimate nondiscriminatory grounds which rebutted any presumption of discrimination against the applicant.
• In *Burkey v. Marshall County Board of Education* (1981) the court held that a school district policy restricting coaching positions for boys' sports to males was discrimination on the basis of sex. Further, the district's practice of paying female basketball coaches only half of what it paid male basketball coaches was an unlawful employment practice.

• For additional case law references, see **Sexual Harassment** below.

**Sexual Harassment**

• In *Harris v. Forklift Systems Inc.* (1993), the U.S. Supreme Court found that a hostile work environment can only be determined by looking at "the totality of the circumstances" and no single factor is required.

• The U.S. Supreme Court in *Franklin v. Gwinnett Public Schools* (1992) reaffirmed that sexual harassment is a violation of Title IX's prohibition against sex discrimination in education for which a school could be held liable for money damages.

• The U.S. Supreme Court in 1989 issued a landmark decision in *Meritor Savings Bank v. Vinson* which for the first time addressed sexual harassment. The Court held that "Without question, when a supervisor sexually harasses a subordinate because of the subordinate's sex, the supervisor discriminates on the basis of sex," and that the employer could be found liable for two types of sexual harassment, "quid pro quo" and "hostile environment."

• In *EEOC v. Hacienda Hotel* (1989), the Appeals Court held that employers were liable for failing to remedy or prevent a hostile offensive work environment about which they knew, or in the exercise of reasonable care, should have known.

• Sexual harassment is not specifically mentioned in Title IX. However, the court has ruled in *Alexander v. Yale University* (1977), that sexual harassment is a form of sex discrimination and established sexual harassment as a cause of action under Title IX. Employees who allege sexual harassment are more likely to use remedies available under federal Title VII, section 703, and/or the California Fair Employment and Housing Act.

• Sexual harassment is also prohibited by the California Education Code, § 212.5. Individuals who allege sexual harassment in any programs and activities within the California Community College system, may also seek remedies available under Title 5 of the California Government Code, Article 3, § 59328.
APPENDICES
APPENDIX I

Documents Needed for a Title IX or Vocational Education Guidelines On-site Review

1. A copy of the Title IX policy covering both students and employees.

2. A copy of the sexual harassment policy covering students and employees (if not part of the Title IX policy).

3. Sample notice of the District’s Title IX Policy to include the name, business phone number and address of the Title IX Coordinator, including notices in the language(s) of the minority populations in the service area. Information about how to access this notice and other information in alternative formats, e.g., large print, Braille, audio tape, should be included in this notice. Provide documentation to indicate that the Title IX information routinely appears in materials to include the schedule of classes, college catalog, brochures, any student/employee handbooks, promotional, orientation and application materials, and pre-employment documents.

4. Example(s) of annual notice to advise students, employees and the general public that vocational opportunities will be offered without regard to race, color, national origin, sex or disability. If the college’s service area “includes a community of national origin minority persons with limited English skills, the notice should include assurances that limited English language skills will not be a barrier to admission and participation in vocational education programs.” (See the Public Notification Check List in Appendix II.) Note: One of the most effective places for this notice is the schedule of classes since it generally reaches a large segment of the community. If, however, the schedule is not mailed to all households then the notice should be published in one or more of the local newspapers at the beginning of each academic year.

5. The Title IX Complaint Procedure(s) for employees and students.

6. A Sexual Harassment Complaint Procedure(s) for students and employees.

7. Title IX Self Evaluation (including documentation that describes any modifications and/or remediation). If this document is no longer on file, discuss this with the review team to determine what, if any, action should be taken.

8. Copies of contracts with such entities as: contractors and subcontractors who provide services, including public and private schools and training centers, outside employers who employ or train students through job placement, cooperative work experience education, and clinical training; community based organizations that provide counseling, day care or other services; labor unions involved with the provision of apprenticeship training; and community organizations that use the agency’s facilities. (These contracts will be reviewed to determine...
whether or not they contain an assurance that such entities do not discriminate on the basis of sex, race, color, national origin, or disability.)

9. Samples of: college application forms, vocational education application forms, and job application forms for both classified and certificated positions. (These applications will be reviewed to determine whether or not they require the applicant to answer questions prohibited in the Title IX regulations, e.g., inquiries about marital status.)

10. Copies of the catalog, schedule of classes, program flyers, and any student or staff handbooks. (These materials will be reviewed to determine whether they are free of any biased, stereotypical or discriminatory language or images. Further, these materials will be checked to see if they include the required Title IX policy notice, information about the availability of a grievance procedure, and the name, business address and phone number of the Title IX Coordinator.)

11. Copy of any written counseling policies, procedures and criteria, and examples of career-vocational materials used with students. (These materials will be reviewed to determine whether they are free of any biased, stereotypical or discriminatory language or images.)

12. Information on studies of male/female enrollment patterns to identify programs and classes that have a ratio of 80%-20% or greater. List any programs and classes that have imbalanced enrollment patterns. (Most reviews are vocational specific and will require data on vocational programs only.)

13. Documentation to indicate that periodic reviews are conducted to determine whether or not the imbalanced enrollment patterns are the result of action (or inaction) in counseling and/or recruiting practices. Include information about any actions that have been taken in response to the reviews.

14. Data on enrollment, employment and selected student services programs will be collected prior to the review. It will be examined to identify any disproportionate male/female representation. If any disproportionate patterns are identified, the review team will continue the examination in an effort to determine whether the underrepresentation of either women or men is the result of any discriminatory policies or practices.

15. Examples of job announcements, mailing list for announcing job openings, application forms and job flyers.

16. Evidence of a process to provide a broad range of student and employee informational materials in a variety of alternative formats, such as Braille, large print and audio tape. These materials should include, but are not limited to, schedule of classes, catalog, policies, complaint procedures, pre-employment information, employee and student handbooks, etc.
APPENDIX II
Public Notification ✓ List to Comply with the
Vocational Education Guidelines, (V-O)

- The notice of the district/college's nondiscrimination policy covers nondiscrimination on the basis of:
  - Sex ................................................................. Yes No
  - Disability .......................................................... Yes No
  - Race, color, national origin ..................................... Yes No

- This policy notice is disseminated to:
  - Students ................................................................. Yes No
  - Employees and all sources of applicants for employment ........ Yes No
  - General public .......................................................... Yes No
  - Members of minority communities with limited English language skills, in the languages of those communities, with a statement assuring "that the lack of English language skills will not be a barrier to admission and participation in vocational education programs." ........ Yes No

- It includes:
  - The name of the Title IX Coordinator .......................... Yes No
    and his/her business address and phone # ............................ Yes No
  - The name of the Section 504/ADA Coordinator ................. Yes No
    and his/her business address and phone # ............................ Yes No
  - A brief summary of vocational program
    offerings and admission criteria ........................................ Yes No

- Information about the availability of a complaint
  procedure accompanies the notice .................................... Yes No

- Information about the availability of the policy/complaint
  procedure in a variety of alternative formats ........................ Yes No

Note: The Vocational Education Guidelines require annual public notification, while Title IX requires "continuing steps" to notify students and employers. (See Section 3 of this handbook, "Getting Out the Word.")