



**STATE OF HAWAII  
DEPARTMENT OF EDUCATION**

P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 17, 2021

The Honorable Ronald D. Kouchi, President  
and Members of the Senate  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker  
and Members of the House of Representatives  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

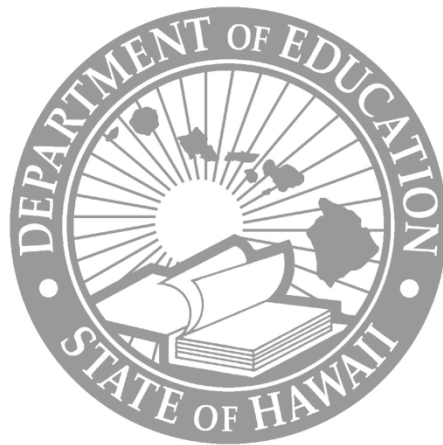
For your information and consideration, I am transmitting a copy of the annual report, Title IX Compliance 2020-2021, pursuant to House Concurrent Resolution No. 198, S.D. 1 (2018). In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at: <http://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Legislative-reports.aspx>.

Sincerely,

Keith T. Hayashi  
Interim Superintendent

KTH:bs  
Enclosure

c: Legislative Reference Bureau  
Hawaii State Public Library System  
University of Hawaii  
Office of Talent Management



State of Hawaii  
Department of Education

# **Annual Report on Title IX Compliance 2020-2021**

December 2021

House Concurrent Resolution No. 198 (2018) requires the Hawaii State Department of Education to annually report on its efforts to comply with Title IX of the Educational Amendments of 1972 promoting gender equity in athletics as it pertains to the Resolution Agreement with the United States Department of Education, Office for Civil Rights, and the Hawaii State Department of Education.

## TITLE IX LEGISLATIVE REPORT

The Hawaii State Department of Education (Department) is committed to Title IX of the Educational Amendments of 1972 (Title IX) and the tenets that it upholds, including equitable use of athletic facilities and resources to ensure that the terms contained on the December 20, 2017 Resolution Agreement with the Office for Civil Rights (OCR) are met.

### **1. Actions taken by the Department to comply with Title IX pursuant to the Resolution Agreement**

#### **Compliance Coordinators:**

On May 7, 2021, the Department submitted a letter to OCR, wherein it stated that the Department believed that it had fulfilled the remaining requirements of the Resolution Agreement. To fulfill the terms of the Resolution Agreement, the Department has, among other things:

- Designated a Title IX Coordinator at the State level;
- Posted contact information for the Title IX Specialist on the Department's Civil Rights Compliance Branch (CRCB) website;
- Distributed brochures and materials identifying contact information for the Title IX Specialist to students, parents, and employees; and
- Designated 15 Equity Specialists to serve as Title IX Coordinators at the complex area level.

The 15 Equity Specialist positions are assigned to each of the Department's complex areas:

1. Aiea-Moanalua-Radford
2. Leilehua-Mililani-Waialua
3. Farrington-Kaiser-Kalani
4. Kaimuki-McKinley-Roosevelt
5. Campbell-Kapolei
6. Nanakuli-Waianae
7. Pearl City-Waipahu
8. Castle-Kahuku
9. Kailua-Kalaheo
10. Hilo-Waiakea
11. Honokaa-Kealakehe-Kohala-Konawaena
12. Kau-Keaau-Pahoa
13. Baldwin-Kekaulike-Maui
14. Hana-Lahainaluna-Lanai-Molokai
15. Kapaa-Kauai-Waimea

Contact information for the Equity Specialists is posted on the Department's CRCB webpage at <http://www.hawaiipublicschools.org/ConnectWithUs/Organization/Offices/Pages/CRCO.aspx>. The Equity Specialists positioned in each of the complex areas listed above also have their contact information posted on each school's website in their respective complex areas.

#### **Notice of Non-Discrimination:**

The Department has developed the following non-discrimination notices: (1) The Annual Notice of Non-Discrimination (Annual Notice) and (2) the Continuous Notice of Non-Discrimination

(Continuous Notice). The Annual Notice has been translated into 14 languages and is posted at <http://www.hawaiipublicschools.org/ConnectWithUs/Organization/Offices/Pages/CRCO.aspx>. In addition, each school has posted a copy of the Annual Notice on its website. The Annual Notice has also been included in the 2020-2021 and the 2021-2022 Opening of the School Year packet, which was disseminated to all Department employees before the beginning of each school year.

Additionally, the Continuous Notice continues to be included in electronic and printed publications for general distribution that provide school-related information to students, employees, or applicants. These publications include but are not limited to: school announcements, school reminders, bulletins, catalogs, student planners, school handbooks, registration forms, school newsletters, and application forms (if applicable). The information included in the Continuous Notice confirms that the Department and its schools do not discriminate based on race, sex, age, color, national origin, religion, or disability in its programs and activities.

In May 2021, both the Annual Notice and Continuous Notice were sent to all schools. Annually, the schools have been reminded to post the Annual Notice onto their respective websites and to include the Continuous Notice in subsequent electronic and printed publications.

### **Grievance Procedures (Complaints Process):**

A revised Title 8, Chapter 19 of Hawaii Administrative Rules (HAR), “Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism” (HAR 8-19), has been in effect since December 2019. Per the revised HAR 8-19, schools have consulted with the CRCB Equity Specialists regarding possible situations of bullying, harassment, discrimination, and retaliation.

Title 8, Chapter 89 of HAR, “Civil Rights Policy and Complaint Procedure for Student(s) Complaints Against Adult(s)” (HAR 8-89), has also been in effect since October 2019. The CRCB has utilized the procedures in HAR 8-89 when investigating protected class student complaints against employees, volunteers, or third-party contractors.

Training for administrators on HAR 8-19 and HAR 8-89 originally occurred in 2019. However, to maintain and ensure that new administrators are aware of the new processes under both HAR 8-19 and HAR 8-89, training on HAR 8-19 and HAR 8-89 continues to be conducted each year. Additionally, training sessions on HAR 8-19 and HAR 8-89 have been conducted upon request by the Department’s complex areas and/or offices or branches. Due to the COVID-19 pandemic and social distancing requirements, training regarding HAR 8-19 and HAR 8-89 has been held in a virtual format since March 2020.

### **Training on the 2020 Title IX Revisions:**

In May 2020, OCR issued new federal regulations, which dramatically expanded the requirements for Title IX grievance procedures. The new federal regulations took effect on August 14, 2020, and created a significant impact on how the Department should investigate and address sexual harassment and discrimination. Due to the length of time required to effectuate a new HAR that would reflect the requirements under the new regulations, the Department drafted and disseminated the Interim Grievance Procedures for Sexual Harassment (Interim Procedures) until a revised HAR can be adopted. The Interim Procedures are posted on the Department’s CRCB webpage at: <http://www.hawaiipublicschools.org/DOE%20Forms/Civil%20Rights/TitleIXInterimGrievanceProceduresforSexualHarassment.pdf>.

The Interim Procedures reflect the requirements outlined in the 2020 revisions to the Title IX regulations and create a process of addressing reports and complaints of sexual harassment with the Department. Briefly, per the 2020 revisions, the Department must respond promptly to reports of sexual harassment, provide supports to complainants, and use a fair grievance process that provides due process to both the complainant and the respondent.

The 2020 revisions to the Title IX regulations created new responsibilities for the Department throughout all points of the grievance process, which included: response obligations when reports of sexual harassment are received; detailed obligations under the investigation process itself, including written exchange of questions; the decision-making process; and the appeals portions of the grievance process for both the complainant and the respondent.

The changes in the grievance process resulted in changes and the expansion of the CRCB Equity Specialist's role in several ways. Initially, when a complaint has been received, the Equity Specialist assigned to the complex area immediately corroborates with the school or office to conduct initial fact-finding to determine whether the report of sexual harassment meets the criteria for a Title IX grievance. The Equity Specialist also assures that supportive measures have been addressed for the parties involved in the complaint. If it is determined that the complaint meets the criteria for a Title IX grievance, unless there are special circumstances involved, the same Equity Specialist conducts the fact-finding portion of the investigation. The Equity Specialist investigates all formal complaints of sexual harassment that meet the criteria for the Title IX grievance process, including investigations where both the complainant and the respondent are students.<sup>1</sup>

Separate from the fact-finding portion of the investigation referenced in the previous paragraph, the Title IX grievance process utilizes a decision-making panel comprised of a second CRCB Equity Specialist and the respondent's administrator, instead of a single decision-maker. The assigned Equity Specialist on the decision-making panel assists the administrator with making findings of fact and determinations of responsibility.

For reports of sexual harassment between students that do not meet the requirements for the Title IX grievance process, schools continue to consult with the CRCB Equity Specialist in regards to the next steps and immediate interventions for the parties. For reports of sexual harassment of a student by an employee that do not meet the requirements for the Title IX grievance process, the Equity Specialist investigates to determine whether the respondent violated any other Board of Education Policies and/or Department directives, rules, or guidelines.

Virtual training for administrators on the Interim Procedures was held during September 2020 and October 2020. Upon request, additional training on the Interim Procedures has also been provided to Complex Area administrators.

### **Additional Training:**

In 2019, the Department procured the services of (1) the Association for Title IX Administrators (ATIXA) for training about sexual misconduct offenses and investigations and (2) Good Sports, Incorporated (Good Sports) for training regarding gender equity in athletics. Multiple pieces of training by ATIXA and Good Sports were conducted in 2019 for the CRCB Equity Specialists, as

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<sup>1</sup> Prior to the new 2020 Title regulations, student to student complaints were not investigated by CRCB.

well as school, complex area, and state-level administrators. The CRCB was fortunate to have been able to extend contracted services with ATIXA and Good Sports for an additional 18 months.

In June 2021, ATIXA conducted four half-day training sessions for the CRCB Equity Specialists. The training focused on the 2020 revisions to the federal Title IX, as well as informal resolution and the intersection of 504 of the Rehabilitation Act and Individuals with Disabilities Education Act (IDEA).

Also, in June 2021, Good Sports virtually attended facilities “walk through” at an Oahu high school in regards to the school’s softball and baseball fields and provided training to the “walk through” participants on how to access athletic facilities.

**1. Actions taken by the Department to comply with Title IX about all athletic facilities, including, but not limited to fields, locker rooms, and transportation**

Good Sports developed a revised Athletic Self-Assessment individualized for the Department. Good Sports also conducted four one-day pieces of training on Oahu, Big Island, Maui, and Kauai, for Athletic Directors to complete the new self-assessment forms.

During the 2020-2021 school year, the Fall and Winter athletic seasons were canceled due to the Covid-19 pandemic. Although the Department allowed a Spring athletic season, the season was shortened to a very condensed time frame, approximately four weeks. Because of this, high schools with competitive athletic programs were not required to complete the Athletic Self-Assessment during the 2020-2021 school year.

During the 2021-2022 school year, although there was a delayed start to the Fall 2021 athletic season, high school competitive athletic programs were back. Therefore, the Athletic Self-Assessment will be administered this school year.

The Office of Facilities Operations (OFO) is also working on various gender equity projects, including improvements to softball fields and the construction of girls’ athletic locker rooms. Current construction is occurring at Campbell High School, Kekaulike High School, and Pearl City High School for softball field improvements. Construction is pending for a girls’ athletic locker room at Mililani High School. Other projects include design development for softball field improvements and girls’ athletic locker rooms at various high schools. Schematic design projects for other schools regarding girls’ athletic locker rooms and softball field improvements are also underway.

**2. All requests for appropriations, positions, and any proposed legislation to comply with the requirements of Title IX**

**Athletic Facilities:**

For Fiscal Year 2020-2021, the Department requested \$23.5 million to implement improvements in various schools statewide for gender equity projects. A summary of the Department’s CIP budget request is available at:

[http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC\\_10032019\\_Action%20on%20DOE%27s%20Supplemental%20CIP%20Budget%20for%20FY%202020-2021.pdf](http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC_10032019_Action%20on%20DOE%27s%20Supplemental%20CIP%20Budget%20for%20FY%202020-2021.pdf).

For Fiscal Year 2022-2023, the Department requested \$10.15 million in funding for gender equity compliance projects. A summary of the Department's supplemental budget request for Fiscal Year 2022-2023 is available at:

[https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC\\_10212021\\_Recommendation%20on%20Supplemental%20Budget.pdf](https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/FIC_10212021_Recommendation%20on%20Supplemental%20Budget.pdf).

**Further Title IX Training and Consultation:**

During SY 2020-2021, the Department proposed to expand Title IX training to teachers, counselors, and students. Additional training and consultation about gender equity in programs and services are also being proposed for new Athletic Directors, School Administrators, and Equity Specialists. As such, the Department submitted a request for additional Title IX training funds during the 2020 legislative session. Although the funding request for additional monies made substantial headway, it did not succeed due to the onset of the pandemic and the current financial status of the State of Hawaii.