

**SEXUAL HARASSMENT**

The Board of Education is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits, at school or at a school-sponsored or school-related activities, sexual harassment targeted at any student by anyone. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

The District strongly encourages students who feel that they are being or have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who have experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact their teacher, the principal, the district's Title IX Coordinator or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the Title IX Coordinator.

Once notified, the Title IX Coordinator shall ensure the ensure the complaint is addressed through Title IX complaint procedures or uniform complaint procedures, as applicable, and shall offer supportive measures to the complainant.

*(cf. 1312.1 – Complaints Concerning District Employees)*

*(cf. 1312.3 – Uniform Complaint Procedures)*

*(cf. 5141.4 – Child Abuse Prevention and Reporting)*

*(cf. 5145.71 – Title IX Sexual Harassment Complaint Procedures)*

The Superintendent or designee shall inform students and parents/guardians of the district's sexual harassment policy by disseminating it through parent/guardian notifications, publishing it on the district's web site, and including it in student and staff handbooks. All district staff shall be trained regarding the policy.

**Instruction/Information**

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment; including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence.
2. A clear message that students do not have to endure sexual harassment under any circumstance.

**SEXUAL HARASSMENT (continued)**

3. Encouragement to report observed incidents of sexual harassment even when the alleged victim of the harassment has not complained.
4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved.
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students.
6. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made.
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the district investigation of a sexual harassment complaint continues.
8. A clear message that, when needed, the district will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation.

**Disciplinary Actions**

Upon completion of an investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

*(cf. 5144 – Discipline)*

*(cf. 5144.1 – Suspension and Expulsion/Due Process)*

*(cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities))*

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

*(cf. 4117.7/4317.7 – Employment Status Report)*

*(cf. 4118 – Dismissal/Suspension/Disciplinary Action)*

*(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)*

*(cf. 4218 – Dismissal/Suspension/Disciplinary Action)*

## SEXUAL HARASSMENT (continued)

### Record-Keeping

In accordance with law, the Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in district schools.

(cf. 3580 – District Records)

#### Legal References:

##### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

48985 Notices, report, statements and records in primary language

##### CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

##### GOVERNMENT CODE

12950.1 Sexual harassment training

##### CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

##### UNITED STATES CODE, TITLE 20

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

##### UNITED STATES CODE, TITLE 34

12291 Definition of dating violence, domestic violence, and stalking

##### UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

##### CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational rights and Privacy

106.1-106.71 Nondiscrimination on the basis of sex in education programs

##### COURT DECISIONS

*Donovan v. Poway Unified School District*, (2008) 167 Cal.App.4<sup>th</sup> 567

*Flores v. Morgan Hill Unified School District*, (2003, 9<sup>th</sup> Cir.) 324 F.3d 1130

*Reese v. Jefferson School District*, (2000, 9<sup>th</sup> Cir.) 208 F.3d 736

*Davis v. Monroe County Board of Education* (1999) 526 U.S. 629

*Gebser v. Lago Vista Independent School District* (1998) 524 U.S. 274

*Oona by Kate S. v. McCaffrey*, (1998, 9<sup>th</sup> Cir.) 143 F.3d 473

*Doe v. Petaluma City School District* (1995, 9<sup>th</sup> Cir.) 54F. 3d 1447

#### Management Resources:

##### CSBA PUBLICATIONS

*Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming*

**SEXUAL HARASSMENT (continued)**

*Students, Policy Brief, February 2014*

*Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

*Q&A on Campus Sexual Misconduct, September 2017*

*Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016*

*Dear Colleague Letter: Title IX Coordinators, April 2015*

*Sexual Harassment: It's Not Academic, September 2008*

*Revisited Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students,  
or Third Parties, January 2001*

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/oc>

Policy amended: October 22, 2020

Policy amended: January 12, 2017

Policy amended: September 6, 2012

Policy amended: May 21, 2009

Policy amended: March 19, 2009

Policy adopted: June 7, 2001