SEXUAL HARASSMENT

The Board of Education is committed to maintaining an educational environment that is free from harassment. Sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities is prohibited. Sexual harassment is considered to be a major offense which may result in disciplinary action up to and including suspension/expulsion of the offending student or dismissal of the offending employee.

The Board of Education also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and administrative regulation.

Complaint Process/Employee Duty to Report

Any student who feels that he/she is being or has been subjected to sexual harassment on school grounds or at a school-sponsored or school-related activity by another student or adult shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall immediately report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal or any other employee to whom the complaint would ordinarily be made, the employee who receives the student’s report or who observes the incident shall report to the Assistant Superintendent or the Superintendent or designee.

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with law and procedures specified in Administrative Regulation (AR) 1312.4 Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.4 and where to obtain a copy of the procedures.

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action.

Disciplinary Measures

Any student who engages in sexual harassment or sexual violence of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action, which may include
suspension and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

Any staff member found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/or collective bargaining agreements.

Instruction/Information

The Principal shall ensure that all students enrolled in Office of Education schools receive age-appropriate instruction and 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 include sexual violence.

2. A clear message that students do not have to endure sexual harassment.

3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained.

4. A clear message that student safety is the Office of Education’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. Information about the procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made.

6. Information about the rights of students and parents/guardians to file a criminal complaint, as applicable.

At the beginning of the school year, or upon enrollment, parents/guardians shall be provided with a copy of this policy and administrative regulation.

Confidentiality and Recordkeeping

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action.

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the Office of Education to monitor, address, and prevent repetitive harassing behavior in the schools.
Legal Reference:

**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 CIVIL CODE

**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**
4600-4687 Uniform Complaint Procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

**UNITED STATES CODE, TITLE 20**
1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX, discrimination

**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
99.1-99.67 Family Educational Rights and Privacy
106.1-106.71 Nondiscrimination on the basis of sex in education programs

**COURT DECISIONS**
Flores v. Morgan Hill Unified School District, (2003) 9th Cir.) 324 F.3d 1130
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447