

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

Donovan v. Poway Unified School District, (2008) 167 Cal.app.4th 567

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

Reese v. Jefferson School District, (2001. 9th Cir.) 143 F.3d 473

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, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447