

Students

BP 5145.7 (a)

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 ~~any student who feels~~ **students who feel** that ~~they are~~ **he/she is** being or ~~has~~ **have** been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, ~~or who has~~ **have** experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact ~~his/her~~ **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**. ~~principal or District compliance officer. Once notified, the principal or compliance officer shall take the steps to investigate and address the allegation, as specified in the accompanying administrative regulation.~~

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. 0410 - Nondiscrimination in District Programs and Activities)*~~

~~*(cf. 1312.1 - Complaints Concerning District Employees)*~~

~~*(cf. 1312.3 - Uniform Complaint Procedures)*~~

~~*(cf. 5131 - Conduct)*~~

~~*(cf. 5131.2 - Bullying)*~~

~~*(cf. 5137 - Positive School Climate)*~~

~~*(cf. 5141.4 - Child Abuse Prevention and Reporting)*~~

~~*(cf. 5145.71 - Title IX Sexual Harassment Complaint*~~

~~*Procedures)*~~ ~~*(cf. 5145.3 - Nondiscrimination/Harassment)*~~

~~*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*~~

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.** ~~take appropriate actions to reinforce the District's sexual harassment 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:

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SEXUAL HARASSMENT (continued)

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.
3. Encouragement to report observed ~~instances~~ incidents of sexual harassment even ~~where~~ **when** the **alleged** victim of the harassment has not complained.
4. A clear message that student safety is the ~~District's~~ **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 ~~stop any~~ **respond to** harassment, prevent recurrence, and address any continuing effect on students.
6. Information about the ~~District's~~ **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~~ **district** investigation of a sexual harassment complaint continues.
8. A clear message that, when needed, the ~~District~~ **district** will ~~take interim~~ **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. ~~and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment~~

Complaint Process and Disciplinary Actions**Disciplinary Actions**

~~Sexual harassment complaints by and against students shall be investigated and resolved in accordance with law and District procedures specified in AR 1312.3—Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.~~

(cf. 1312.3—Uniform Complaint Procedures)

SEXUAL HARASSMENT (continued)

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**, ~~have his/her employment terminated~~ in accordance with law and the applicable collective bargaining agreement.

~~*(cf. 4117.7 – Employment Status Report)*~~

(cf. 4117.7/4317.7 – Employment Status Report)

~~*(cf. 4118/4218 – Dismissal/Suspension/Disciplinary Action)*~~

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

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

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

Record-Keeping

In accordance with law, the ~~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 ~~its District~~ **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

~~4600-4687 Uniform Complaint Procedures~~

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

SEXUAL HARASSMENT (continued)

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational rights and Privacy Act

~~1681-1688 Title IX, Discrimination~~

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.4th 567

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

~~*Reese v. Jefferson School District, (2001) 208 F.3d 736*~~

Reese v. Jefferson School District, (2000, 9th 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, 9th Cir.) 143 F.3d 473

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

Management Resources:

CSBA PUBLICATIONS

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

Students

AR 5145.7 (a)

SEXUAL HARASSMENT

TITLE IX Coordinator

The ~~District~~ **district** designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, ~~and California Education Code 234.1~~, as well as to investigate and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The **Title IX Coordinator(s)** ~~coordinator/compliance officer~~ may be contacted at:

Assistant Superintendent of Human Resources Development
Alvord Unified School District
9 KPC Parkway
Corona, CA 92879
(951) 509-5030

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Prohibited Conduct

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity.

(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
~~*(cf. 5137 - Positive School Climate)*~~
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

Examples of types of conduct which are prohibited in the district and which may constitute

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sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

Reporting Process and Complaint Investigation and Resolution

~~Any Student who believes that he/she has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to his/her teacher, the principal, or any other available school employee. Within one school day of receiving such a report, the school employee shall forward the report to the principal or the district's compliance officer identified in AR 1312.3. In addition, any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report his/her observation to the principal or a district compliance officer. The employee shall take these actions, whether or not the alleged victim files a complaint.~~

SEXUAL HARASSMENT (continued)

~~When a report or complaint of sexual harassment involves off-campus conduct, the principal shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If he/she determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school. When a verbal or informal report of sexual harassment is submitted, the principal or compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with the District's uniform complaint procedures. Regardless of whether a formal complaint is filed, the principal or compliance officer shall take steps to investigate the allegations and, if sexual harassment is found, shall take prompt action to stop it, prevent recurrence, and address any continuing effects.~~

~~If a complaint of sexual harassment is initially submitted to the principal, he/she shall, within two school days, forward the report to the compliance officer to initiate investigation of the complaint.~~

~~The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and District procedures specified in AR 1312.3.~~

~~In investigating a sexual harassment complaint, evidence of past sexual relationships of the victim shall not be considered, except to the extent that such evidence may relate to the victim's prior relationship with the respondent.~~

~~In any case of sexual harassment involving the principal, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted to the Superintendent or designee who shall determine who will investigate the complaint.~~

Confidentiality

~~All complaints and allegations so sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5CCR 4964)~~

~~However, when a complaint or victim of sexual harassment notifies the District of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit the District's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, the District will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with eh request.~~

~~When a complaint or victim of sexual harassment notifies the District of the harassment but request that the District no pursue an investigation, the District will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students.~~

~~(cf. 4119.23/4219.23/4319.23—Unauthorized Release of Confidential/Privileged Information) (cf. 5125—Student Records)~~

SEXUAL HARASSMENT (continued)**Response Pending Investigation**

~~When an incident of sexual harassment is reported, the principal or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary pending the results of the investigation. The principal/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. To the extent possible, such interim measures shall not disadvantage the complainant or victim of the alleged harassment. Interim measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher, in accordance with law and Board policy. The School should notify the individual change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such action shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school sponsored or school-related programs or activities.~~

Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

~~A copy of the District's sexual harassment policy and regulation shall be posted on District and school web sites and, when available, on District supported social media.~~

~~*(cf. 1113 - District and School Web Sites)*~~

~~*(cf. 114 - District Sponsored Social Media)*~~

3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6) ~~Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session. (Education Code 231.5)~~

SEXUAL HARASSMENT (continued)

4. Be posted in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. This shall include the name or title, office address, email address, and telephone number of the employee(s) designated as the district's Title IX Coordinator. (Education Code 234.6; 34 CFR 16.8) ~~Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct (Education Code 231.5)~~

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session (Education Code 231.5) ~~to employees and employee organizations~~
6. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
7. Be included in any handbook provided to students, parents/guardians, employees, or employee organizations (34 CFR 106.8)

Reporting Complaints

A student or parent/guardian who believes that the student has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to a teacher, the principal, the district's Title IX Coordinator, or any other available school employee. Within one school day of receiving such a report, the principal or other school employee shall forward the report to the district's Title IX Coordinator. Any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report the observation to the principal or Title IX Coordinator, regardless of whether the alleged victim files a formal complaint.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

When a report or complaint of sexual harassment involves off-campus conduct, the Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX Coordinator determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

When a verbal or informal report of sexual harassment is submitted, the Title IX Coordinator shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with applicable district complaint procedures.

Complaint Procedures

SEXUAL HARASSMENT (continued)

All complaints of sexual harassment by and against students shall be investigated and resolved in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 1312.3 - Uniform Complaint Procedures.

Regulation amended: October 22, 2020

Regulation amended: January 12, 2017

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Regulation amended: May 21, 2009

Regulation amended: March 19, 2009

Regulation approved: June 7, 2001