

SEXUAL AND GENDER-BASED HARASSMENT

The Governing Board is committed to maintaining a learning environment that is free of harassment. The Board prohibits sexual and gender-based harassment of any employee, student, or other person at school or at any school-related activity. Sexual and gender-based harassment is a form of sex discrimination under Title IX of the Education Amendments of 1972 and is prohibited by both federal and state law.

It shall be a violation of this policy for any district employee to harass another district employee, applicant or student through conduct or communications of a sexual nature as defined in Administrative Regulation 4119.11. It shall also be a violation of this policy for students to harass other students or district employees through conduct or communications of a sexual nature as defined in Administrative Regulation 5145.7.

Information

The Superintendent or designee shall ensure that students receive age-appropriate information related to sexual and gender-based harassment. Such information shall include:

1. Examples of acts and behavior which constitute sexual and gender-based harassment.
2. Students shall be assured that they need not endure any form of sexual conduct or communication, including harassment because of sexual orientation, gender identity, or gender expression.

They shall further be assured that they need not endure, for any reason, any harassment which impairs the educational environment or a student's emotional well-being at school.

Teachers shall discuss this policy with their students in age-appropriate ways and should assure them that they need not endure any form of sexual or gender-based harassment.

3. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual or gender-based harassment should be made.

Students shall be informed that they should immediately contact the principal or designee if they feel they are being harassed.

4. Students shall be encouraged to report observed instances of sexual or gender-based harassment, even where the victim of the harassment has not complained.

Complaint Process

The Board expects students or staff to immediately report incidents of sexual or gender-based harassment to the principal or designee, to another district administrator or a faculty member. Any student who

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feels that he/she is being harassed should immediately contact the principal or designee at his/her school.

Staff shall immediately report complaints of sexual or gender-based harassment to the principal or designee or to another district administrator. Staff shall similarly report any such incidents they may observe, even if the harassed student has not complained.

The Superintendent or designee shall ensure that any complaints regarding sexual or gender-based harassment are immediately investigated. The investigation shall include identification of any other students, in addition to the complainant, who may have been subjected to the prohibited harassment and who may have been subjected to a hostile environment.

If a situation involving sexual or gender-based harassment is not promptly investigated and remedied by the principal or designee, a complaint of harassment can be filed in accordance with AR 1312.1 – Complaints Concerning District Employees or AR 1312.3 – Uniform Complaint Procedures. The principal or designee or district administrator shall determine which procedure is appropriate. A complaint filed under the UCP can be filed at any time and does not have to first be filed with the school site.

The district prohibits retaliatory behavior against any complainant or any participant in the complaint process.

Confidentiality

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

Information related to a complaint of sexual or gender-based harassment shall be confidential to the extent possible, and individuals involved in the investigation of such a complaint shall not discuss related information outside the investigation process.

The Superintendent or designee shall maintain a record of all reported cases of sexual or gender-based harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

Disciplinary Actions

Any student who engages in sexual or gender-based harassment of anyone at school or at a school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion.

Any employee who engages in, permits or fails to report sexual or gender-based harassment shall be subject to disciplinary action up to and including dismissal. In addition, criminal or civil charges may be brought against the alleged harasser; sexual and gender-based harassment also may be considered a violation of laws relating to child abuse.

Effects of Sexual Harassment

The Superintendent or designee shall ensure that if sexual or gender-based harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim(s). The types of actions will vary depending on the circumstances, but may include discipline

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of the harasser, counseling and/or other support services for any person found to have been subjected to prohibited harassment, or separation of the victim(s) and the harasser. When separation of the victim and harasser is warranted, the Superintendent or designee shall not unduly burden the victim.

Legal Reference:**CIVIL CODE**

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

1714.1 Liability of parents/guardians for willful misconduct of Minor

EDUCATION CODE

200-264.2 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

UNITED STATES CODE, TITLE 42

2000d & 2000e et seq. Title VI & Title VII, Civil Rights Act of 1964 as amended

2000h-2et seq. Title IX, 1972 Education Act Amendments

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.) 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.) 54 F.3d 1447

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