

RANCHO SANTA FE SCHOOL DISTRICT

Board Policy No. 5001.1: SEXUAL HARASSMENT OF PUPILS INCLUDING TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

A. Introduction

The District recognizes that harassment on the basis of sex is unlawful. Employees and pupils will not engage in conduct constituting sexual harassment. This Board Policy prohibits any act of sexual harassment as defined by this Board Policy where such act is related to any school activity or school attendance as allowed by law. The District will not condone or tolerate sexual harassment. The District will take appropriate disciplinary action against all employees or pupils found to have engaged in sexual harassment.

B. Compliance Officer/Title IX Coordinator

The Governing Board designates the following compliance officer/Title IX Coordinator responsible for receiving, coordinating and investigating the complaints of sexual harassment and for complying with state and federal civil rights laws and to answer questions concerning the District's sexual harassment policies.

Superintendent
Rancho Santa Fe School District
5927 La Granada
Rancho Santa Fe, California, 92067
(858) 756-1141 ext. 114

Mailing Address:
Rancho Santa Fe School District
P.O. Box 809
Rancho Santa Fe, California, 92067

C. Definitions of Sexual Harassment

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. It includes but is not limited to circumstances in which:

1. Submission to such conduct is made a term or condition of a pupil's academic status or progress.
2. Submission to or rejection of such conduct is used as the basis for any academic decision affecting such pupil.

3. Such conduct has the purpose or effect of having a negative impact upon the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to, or rejection of, the conduct is used as the basis for any decision affecting benefits and services, honors, programs, or activities available at or through the school.

D. Forms of Sexual Harassment

Forms of sexual harassment include but are not limited to the following:

1. Oral harassment such as derogatory comments, jokes or slurs;
2. Physical harassment such as unnecessary, unwelcome or offensive touching, or impeding or blocking movement;
3. Visual harassment such as derogatory or offensive posters, cards, cartoons, pictures, graffiti, drawings, or gestures; and
4. Unwelcome sexual advances, requests, or demands for sexual favors, and other oral or physical conduct of a sexual nature.
5. Electronic communications including, but not limited to, unwelcome communications, photos, videos, or other content sent through electronic messaging that is sexual in nature, such as texts, emails, and social media.

E. Complaint Procedure For All Illegal Harassment

A pupil or parent/guardian who believes that the pupil has been subjected to sexual harassment by another pupil, 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 (1) 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 pupil shall, within one (1) school day, report the observation to the principal or Title IX Coordinator, regardless of whether the alleged victim files a formal complaint.

When a report of sexual harassment is made to or received, the Superintendent or Principal shall notify the pupil and parent/guardian of the right to file a formal complaint in accordance Board Policy 6006, Uniform Complaint Procedures. Once notified verbally or in writing, the Superintendent or designee shall begin the investigation and shall implement immediate measures necessary to stop the harassment and ensure that all pupils have access to the educational program and a safe school environment.

Any pupil wishing to make a complaint of sexual harassment should immediately report it to the Principal or designee. However, there is absolutely no requirement that a pupil must make a complaint to the alleged harasser. If the Principal or designee is the alleged harasser, the pupil should make the complaint to the Superintendent. A pupil making a complaint of sexual harassment shall not suffer any reprisal for doing so. The District will promptly and thoroughly investigate all complaints of sexual harassment. The District also will take immediate and appropriate action to resolve such complaints. All incidents of sexual harassment will be remedied. A report of the results of the investigation will be made to the complainant, the alleged harasser, and the supervisor of the alleged harasser.

F. Title IX Sexual Harassment Complaint Procedures

1. The complaint procedures described in this Paragraph E shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a pupil, while in an education program or activity in which a District school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment:
 - a. A District employee conditioning the provision of a District aid, benefit, or service on the pupil's participation in unwelcome sexual conduct.
 - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a pupil equal access to the District's education program or activity.
 - c. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291.

2. Supportive Measures

Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures and shall consider the complainant's wishes with respect to the support measures implemented. Supportive measures shall be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus.

3. Emergency Removal from School

A pupil shall not be disciplined for alleged sexual harassment under Title IX until the investigation has been completed. However, on an emergency basis, the District may remove a pupil from the District's education program or activity, provided that the District conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any pupil or other individual arising from the allegations, and provides the pupil with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a pupil does not modify a pupil's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.

4. Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment under 34 CFR 106.30. The Title IX Coordinator shall also dismiss any complaint as required by Title IX. Upon dismissal, the Title IX Coordinator shall promptly, send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeal" below. If a complaint is dismissed, the Title IX Coordinator shall evaluate whether the complaint shall be investigated under the District's Uniform Complaint Procedures.

5. Written Notice to the Parties

The Title IX Coordinator shall provide the known parties with written notice of the following:

- a. The District's complaint process, including any informal resolution process;
- b. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.
- c. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process.
- d. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence.
- e. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process.

6. Investigation Procedures

- a. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- b. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- c. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
- d. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties .
- e. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate.
- f. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report.
- g. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness.
- h. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

7. Written Decision

- a. The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter.
- b. After sending the investigative report to the parties and before reaching a determination regarding responsibility, afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
- c. The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct.
- d. The written decision shall be issued within 60 calendar days of the receipt of the complaint, unless the timeframe is extended by the District for good cause. The District shall provide written notice to the parties of any extension.

- e. The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action.
- f. In making this determination, the decision maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against pupils as for complaints against employees.

8. Appeals

- a. Either party may appeal the District's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias of the Title IX Coordinator, investigator, or decision-maker affected the outcome.
- b. An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.
- c. A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.
- d. The District's decision may be appealed to the California Department of Education within 30 days of the written decision.
- e. Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.
- f. The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining order, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

9. Recordkeeping: The Superintendent or designee shall maintain for a period of seven (7) years:

- a. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom
- b. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the District's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstance
- c. All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The District shall make such training materials publicly available on its web site,

or if the District does not maintain a web site, available upon request by members of the public.

10. The Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45.
11. This grievance process does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

G. Dissemination Of Policy

1. A copy of this Policy on sexual harassment shall be provided as part of any orientation program conducted for new pupils at the beginning of each quarter, semester, or summer session, as applicable.
2. A copy of this Policy shall be displayed in a prominent place in the main administrative building or other area of the campus or school site where notices regarding the rules, regulations, procedures and standards of conduct are posted.
3. A copy of this Policy shall be provided to each employee at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.
4. A copy of this Policy shall appear in any publication that sets forth the comprehensive rules, regulations, procedures and standards of conduct for the institution.
5. A copy of this Policy must be provided annually to parents in the District's annual notices to parents required by Education Code section 48980.

Legal Reference:

Education Code sections 210-231.5, 210-212.5, 220, 221.5, 221.7, 224, 225, 229, 230, 231, 231.5, 48980

Title IX of the Education Amendments of 1972

Date Policy Adopted By The Board: March 17, 1993

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