San Bernardino County Superintendent of Schools
Procedure 5145.7

Sexual Harassment - Procedure

Definitions/Prohibited Conduct

Sexual harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of one, or a combination of two or more protected characteristics, which include, but may not be limited to, sex; gender; gender identity; gender expression; sexual orientation; sex stereotypes; pregnancy, false pregnancy, childbirth, termination of pregnancy, or related conditions or recovery; and parental, marital, and family status. (Education Code 200, 210.2, 220, 221.51, 230, 260; Government Code 11135; 20 USC 1681-1688)

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.

Examples of types of conduct which are prohibited in SBCSS and may constitute 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 conversations

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. Massaging, grabbing, fondling, stroking, or brushing the body

7. Touching an individual’s body or clothes in a sexual way

8. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex

9. Displaying sexually suggestive objects

10. Sexual assault, sexual battery, or sexual coercion

11. Electronic communications containing comments, words, or images described above

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

For purposes of applying the complaint procedures specified in Title IX, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a SBCSS school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity

3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

For purposes of Title IX, "sexual harassment" includes "sexual assault" as that term is defined by the Clery Act (20 U.S.C. § 1092(f)(6)(A)(v)), which incorporates the FBI's Uniform Crime Reporting (UCR)/NIBRS offense categories. Accordingly, SBCSS applies the FBI UCR/NIBRS definitions of rape, statutory rape, incest, and criminal sexual contact (formerly "fondling") when determining whether conduct constitutes "sexual assault" under Title IX.

Title IX Coordinator/Compliance Officer

The San Bernardino County Superintendent of Schools (SBCSS) designates the following individual as the responsible employee to coordinate the SBCSS's efforts to comply with Title IX. The individual shall also serve as the Compliance Officer specified in Exhibit (1) 1312.3 - Uniform Complaint Procedures and Administrative Regulation 5145.3 Nondiscrimination/Harassment as the employee responsible for handling student complaints alleging unlawful discrimination, as permitted by law. The Title IX Coordinator may be contacted at:

Assistant Superintendent, Human Resources
760 E. Brier Drive, San Bernardino, CA 92408
(909) 386-9576
Suzanne.Hernandez@sbcss.net

Notifications

SBCSS shall notify students and parents/guardians that the SBCSS does not discriminate on the basis of sex as required by Title IX and that inquiries about the application of Title IX to the SBCSS may be referred to the SBCSS's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

The SBCSS shall notify students and parents/guardians of the name or title, office address, email address, and telephone number of the SBCSS Title IX Coordinator. (34 CFR 106.8)

A copy of the SBCSS'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; 5 CCR 4917)

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

3. Be summarized on a poster which is 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 sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the SBCSS's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.6; 34 CFR 106.8)

5. Be provided as part of any orientation program conducted for new and continuing students at the time the student is enrolled or at the beginning of each quarter, semester, or summer session (Education Code 231.5)

6. Appear in any publication that sets forth the program/school's or SBCSS's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

Be included in any handbook provided to students, parents/guardians, employees, or employee organization. (34 CFR 106.8)

Reports and Complaints

A student or a student's parent(s)/guardian(s) who believes that the student has been subjected to sexual harassment in a SBCSS program or activity or who has witnessed sexual harassment is strongly encouraged to report the incident to SBCSS's Title IX Coordinator, a teacher, the principal, or program administrator, or any other available school employee.

Within one schoolday of receiving such a report, the principal/program administrator or other school employee shall forward the report to the SBCSS's Title IX Coordinator.

Any school employee who receives a report or observes an incident of sexual harassment involving a student in SBCSS program or activity shall notify the Title IX Coordinator within one schoolday. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality. If the employee initially reports the incident to the site principal or administrator, the Titel IX Coordinator must still be notified within the same timeframe to ensure compliance with 34 CFR §106.44–106.45.

If the Title IX Coordinator determines a complaint of sexual harassment involves off-campus conduct and the conduct may create or contribute to the creation of a hostile school environment, 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 student or parent/guardian shall be informed of the right to file a formal written complaint in accordance with SBCSS complaint procedures.

All complaints alleging sexual harassment against students in the school setting shall be investigated and resolved in accordance with law and SBCSS procedures. The allegations shall be reviewed 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 Exhibit (1) 5145.71 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to SBCSS policy and Exhibit (1) 1312.3 - Uniform Complaint Procedures.

If sexual harassment is found following an investigation, prompt action shall be taken to stop the sexual harassment, prevent recurrence, implement remedies, and address any continuing effects.

SBCSS will apply the updated FBI NIBRS 2025 offense definitions for Title IX sexual assault to all reports or complaints received on or after June 25, 2025. Reports or complaints received prior to this date may be evaluated under the definitions in effect at the time of filing, consistent with law and legal counsel direction

Policy Reference Disclaimer:
These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for SBCSS to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary education programs
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor

Civ. Code 51.9	Liability for sexual harassment; business, service and professional relationships
Ed. Code 200-262.1	Educational equity; prohibition of discrimination on the basis of sex
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	No requirement to disclose information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900	Grounds for suspension or expulsion; definition of bullying
Ed. Code 48900	Grounds for suspension and expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49060-49079	Student records
Gov. Code 12950.1	Sexual harassment training
Federal	**Description**
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended

Management Resources	**Description**
Court Decision	Tennessee v. Cardona (2024) 737 F.Supp.3d 510
Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. DOJ Publication	Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025
Website	U.S. Department of Education, Office for Civil Rights
Website	CSBA
Website	California Department of Education

Cross References

Code	**Description**
0410	Nondiscrimination In County Office Programs And Activities
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1312.3-E(3)	Uniform Complaint Procedures

5131.2	Bullying
5131.2	Bullying
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.71-E(2)	Title IX Sexual Harassment Complaint Procedures
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology

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