SEXUAL HARASSMENT (STUDENTS)

The district does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations.

The Board of Education is committed to maintaining a welcoming, safe, and supportive school environment that is free from discrimination and harassment. The Board prohibits at district or at district-sponsored or district-related activities, sexual harassment as defined in the accompanying administrative regulation, targeted at any student.

Additionally, the Board prohibits retaliatory behavior or action against any person who reports, files a complaint, testifies about, assists with, or otherwise supports a complaint in alleging sexual harassment, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1, 221.8; 34 CFR 106.71)

The district strongly encourages students who feel that they are being or have experienced sexual harassment on district grounds or at a district-sponsored or district-related activity, or off-campus when the conduct has a continuing effect on campus, to immediately contact 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 by or against a student in a district education program or activity shall report the incident to the Title IX Coordinator within one workday.

Once notified, the Title IX Coordinator shall ensure that the complaint alleging sexual harassment is addressed through Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures or Board Policy/Administrative Regulation 1312.3 - Uniform Complaint Procedures, as applicable. Additionally, the Title IX Coordinator shall ensure that any implementation of Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures concurrently meets the requirements of Board Policy/Administrative Regulation 1312.3 - Uniform Complaint Procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to the complainant and respondent, as deemed appropriate under the circumstances.

The Superintendent or designee shall inform students and parents/guardians of this policy in the manner specified in the accompanying administrative regulation.

The Superintendent or designee shall ensure that all district staff are trained regarding this policy, and that employees required to receive training related to their duties under Title IX receive training as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sexual Harassment. (Government Code 12950.1; 2 CCR 11023, 11024; 34 CFR 106.45)

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:

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 of sexual harassment, even where the victim of the harassment has not complained

4. A clear message that student safety is the 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 action shall be taken to respond to the harassment, prevent recurrence, and address any continuing effect on students

6. Information about the district's procedures 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 investigation of a sexual harassment complaint continues

8. A clear message that, when needed, the district will 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

Disciplinary Actions

Upon completion of an investigation of sexual harassment, any student found to have engaged in sexual harassment or sexual violence 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, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

Upon completion of an investigation of sexual harassment, any employee who engages in sexual harassment or sexual violence toward any student shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

Record-Keeping

The Superintendent or designee shall maintain records in accordance with law, including in accordance with Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures, and district policies and regulations, of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in district schools.

Legal References:

State	***Description***
5 CCR 432	*Student records*
5 CCR 4600-4670	*Uniform complaint procedures*

5 CCR 4900-4965	*Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance*
Civ. Code 1714.1	*Liability of parent/guardian for act of willful misconduct by a minor*
Civ. Code 51.9	*Liability for sexual harassment; business, service and professional relationships*
Ed. Code 200-262.4	*Prohibition of discrimination*
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 220.5	*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*
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 48985	*Notices to parents in language other than English*
Ed. Code 49060-49079	*Student records*
Gov. Code 11135	*Prohibition of discrimination*
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 or activities*
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	*Davis v. Monroe County Board of Education (1999) 526 U.S. 629*
Court Decision	*Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447*
Court Decision	*Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274*
Court Decision	*Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473*
Court Decision	*Reese v. Jefferson School District (2001, 9th Cir.) 208 F.3d 736*
Court Decision	*Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567*
Court Decision	*Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130*
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, May 19, 2020, Vol. 85, No. 97, pages 30026-30579*
U.S. DOE, Office for Civil Rights Publication	*Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025*
Website	*CSBA District and County Office of Education Legal Services*
Website	*California Department of Education*
Website	*CSBA*
Website	*U.S. Department of Education, Office for Civil Rights*

Policy SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
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