Policy 0410: Nondiscrimination In District Programs And Activities

Status: ADOPTED

Original Adopted Date: 11/17/2008 **| Last Revised Date:** 01/29/2024 **| Last Reviewed Date:** 01/29/2024

This policy shall apply to all acts related to a school activity or school attendance and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board of Trustees is committed to providing equal opportunity for all individuals in education. District programs and activities shall be free from discrimination, harassment, intimidation and bullying against an individual or group based on actual or perceived age; gender, gender identity or expression, or genetic information; sex, actual or potential parental, family, or marital status that treats students differently on the basis of sex; race, color, religion, ancestry, national origin, ethnic group identification, physical or mental disability, medical condition, pregnancy, reproductive health decision-making, sexual orientation, immigration status, veteran or military status; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. The Board of Trustees is determined to provide students, employees, community members and job applicants a safe, positive environment where they are assured full and equal employment access and opportunities, protection from harassment, intimidation, bullying, and freedom from any fear of retaliation for asserting their rights in accordance with law. The Board shall promote programs that ensure discriminatory practices are eliminated in all district activities.

This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent of the District.

District programs and activities shall be free of any discriminatory use, selection, or rejection of textbooks, instructional materials, library books, or similar educational resources.

The use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be rejected or prohibited by the Board or district on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

District programs and activities shall be free of any racially derogatory or discriminatory school or athletic team names, mascots, or nicknames. (Education Code 221.2-221.3)

All individuals shall be treated equitably in the receipt of district and school services. Personally identifiable information collected in the implementation of any district program, including, but not limited to, student and family information for the free and reduced-price lunch program, transportation, or any other educational program, shall be used only for the purposes of the program, except when the Superintendent or designee authorizes its use for another purpose in accordance with law. The District shall not use data collected to create a registry based on race, gender, sexual orientation, religion, ethnicity, immigration status or national origin.

The Superintendent or designee shall annually review district programs and activities to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing district programs and activities. He/she shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report his/her findings and recommendations to the Board after each review.

All allegations of unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with the procedures specified in AR 1312.3 - Uniform Complaint Procedures.

The Superintendent or his/her designee shall notify students, parents/guardians, employees, employee organizations and applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in each announcement, bulletin, catalog, handbook, application form, or other materials distributed to these groups. The notification shall also be posted in other prominent locations as appropriate. (34 CFR 104.8, 106.9)

In addition, the annual parental notification shall inform parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, including information on educational rights issued by the California Attorney General. Alternatively, such information may be provided through any other cost-effective means determined by the Superintendent or designee. (Education Code 234.7)

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a school's students speak a single primary language other than English, those materials shall be translated into that other language.

I. Commitment to Compliance with the Americans with Disabilities Act

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act and any implementing standards and/or regulations. When structural changes to existing district facilities are needed to provide individuals with disabilities access to programs, services, activities, or facilities, the Superintendent or designee shall develop a transition plan that sets forth the steps for completing the changes.

The Superintendent or his/her designee shall ensure that the district provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, note takers, written materials, taped text, and Braille or large print materials.

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program or meeting.

II. Commitment to Compliance with Title IX

Title IX of the Educational Amendments of 1972 states: “No person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.” In accordance with federal Title IX statutes and similar State statutes, the Board prohibits any discrimination based on gender, sex, or sexual orientation in any District educational program or activity, including, but not limited to program and activities; course accessibility; counseling; physical education; athletics; sexual harassment; pregnant and parenting students; extra-curricular activities, programs and clubs.

The Superintendent shall adopt, and may periodically revise, administrative regulations necessary to implement and enforce this policy. The regulations shall provide an adequate description of this policy to parents, students, and employees; provide appropriate complaint and resolutions procedures; and establish due process for persons accused of harassment, discrimination, intimidation or bullying based on gender, sex or sexual orientation. All allegations of unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with the procedures specified in AR 1312.3 – Uniform Complaint Procedures.

The Board of Trustees designates the following position as Coordinator for Title IX Nondiscrimination and all Title IX-related complaints should be forwarded to this person:

Chief Compliance Officer
670 L Street, Suite G
Chula Vista, CA 91911
(619) 600-4900
www.sweetwaterschools.org/TITLE-IX(https://simbli.eboardsolutions.com/SU/85y4CqAJRegMoErV3eIMKQ==)
or via email at
compliance@sweetwaterschools.org(https://simbli.eboardsolutions.com/SU/rhPatVxunXT1rV7Nvr8fAA==)

The Superintendent or his/her designee shall regularly coordinate trainings provided by qualified individuals for employees, students and community members, as well as publicize within the district the Title IX Policy and Administrative Regulations and the availability of complaint procedures. The Superintendent shall ensure that students receive age-appropriate information and education related to Title IX compliance.

Policy 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 06/17/2013 **| Last Revised Date:** 01/29/2024 **| Last Reviewed Date:** 01/29/2024

The Board of Trustees recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.
The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal law or regulations governing the use of categorical funds, such as Accommodations for Pregnant and Parenting Pupils, Adult Education, After School Education and Safety, Agricultural Career Technical Education, Career Technical and Technical Education and Career Technical Training Programs, Child Care and Development, Compensatory Education, Consolidated Categorical Aid, Every Student Succeeds Act, Local Control Funding Formula and Local Control Accountability Plans, Migrant Education, Physical Education Instructional Minutes, Regional Occupational Centers and Programs, School Plans for Student Achievement, School Safety Plans, School Site Councils, and any other district-implemented program which is listed in Education Code 64000(a) (5 CCR 4610).

2. Any complaint alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against any student, employee, or other person participating in district programs and activities, including, but not limited to, those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, ethnic group identification, immigration status, age, religion, marital, pregnancy, family, or parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on his/her association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610). Employment discrimination complaints are excluded from the UCP complaint process.

   Discrimination includes, but is not limited to, the Board's refusal to approve the use or prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. A complaint alleging such unlawful discrimination may, in addition to or in lieu of being filed with the district, be directly filed with the Superintendent of Public Instruction (SPI). (Education Code 243)

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222).

4. Any complaint alleging district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610).

5. Any complaint alleging district noncompliance with legal requirements related to the implementation of the local control and accountability plan (Education Code 52075).

6. Any complaint, by or on behalf of any student who is a foster youth, students from military families, and students formerly in juvenile court now enrolled in the school district, migrant students, and immigrant students participating in a newcomer program, alleging district noncompliance with any legal requirement applicable to the student regarding placement decisions, the responsibilities of the district's educational liaison to the student, the award of credit for coursework satisfactorily completed in another school or district, school transfer, or the grant of an exemption from Board-imposed graduation requirements (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2).

7. Any complaint, by or on behalf of a homeless student, as defined in 42 USC 11434a, alleging district noncompliance with any requirement applicable to the student regarding the award of credit for coursework satisfactorily completed in another school or district or the grant of an exemption from Board-imposed

graduation requirements (Education Code 51225.1, 51225.2).

8. Any complaint alleging district noncompliance with the requirements of Education Code 51228.1 and 51228.2 that prohibit the assignment of a student to a course without educational content for more than one week in any semester or to a course the student has previously satisfactorily completed, without meeting specified conditions (Education Code 51228.3).

9. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. ADR, such as mediation, may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. As appropriate for any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep confidential the identity of the complainant and/or the subject of the complaint if he/she is different from the complainant, as long as the integrity of the complaint process is maintained.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and related requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain records of all UCP complaints and the investigations of those complaints in accordance with applicable law and district policy.

Non-UCP Complaints

When an allegation that is not subject to the UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The following complaints are not subject to our UCP process set forth in this document and shall be reviewed by the District and either processed under relevant district policies or referred to other agencies for appropriate resolution:

1. Allegations of child abuse shall be referred to County Department of Social Services (DSS), Protective Services Division and/or appropriate law enforcement agency.

2. Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.

3. Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the California Department of Fair Employment and Housing (DFEH).

4. Employment discrimination, harassment, intimidation or bullying complaints shall be sent to the California Department of Fair Employment and Housing (DFEH).

5. Allegations of fraud shall be referred to the Legal, Audits and Compliance Branch in the California Department of Education (CDE).

6. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education, or a due process hearing order shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

7. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable

expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)

8. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)

In addition, the district's Williams Uniform Complaint Procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments.

Regulation 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 11/17/2008 **| Last Revised Date:** 01/30/2024 **| Last Reviewed Date:** 01/30/2024

Except as the Board of Trustees may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only complaints specified in Sweetwater Union High School District Board Policy 1312.3.

Compliance Officers

The Board of Trustees designates the following compliance officer to receive and investigate complaints and to ensure district compliance with law, including handling complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation or bullying) against students, as specified by BP 5145.3 Nondiscrimination/Harassment:

Chief Compliance Officer
670 L Street, Suite G
Chula Vista, CA 91911
(619) 600-4900
compliance@sweetwaterschools.org

In reference to Special Education issues should be forwarded to the following compliance officer:

Director of Special Services
670 L Street, Suite A
Chula Vista, CA 91911
(619) 796-7500

The compliance officer who receives the complaint may assign another trained staff member of the Compliance Office to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another staff member is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which he/she has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

Training provided to such employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation or bullying), applicable standards to reaching decisions on complaints, and appropriate corrective measures.

The Superintendent or his/her designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or his/her designee.

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of the investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1.)

The Superintendent or his/her designee shall annually provide written notification of the district's UCP, including information regarding unlawful student fees, local control and accountability plan (LCAP) requirements, and requirements related to educational rights of foster youth and homeless students, to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials

or representatives, and other interested parties. (5 CCR 4622; Education Code 262.3, 48853, 48853.5, 49013, 49069.5, 51225.1, 51225.2, 52075.)

The annual notification and complete contact information for the Compliance Office may be posted on the district web site and, if available, provided through district-supported social media.

The Superintendent or his/her designee shall ensure that all student and parent/guardians, including students and parent/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

The Superintendent or his/her designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints.

2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable.

3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies, such as the U.S. Department of Education's Office for Civil Rights (OCR) in cases involving unlawful discrimination (such as discriminatory harassment, intimidation, or bullying).

4. Include statements that:

    a. The district is primarily responsible for compliance with state and federal laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy.

    b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.

    c. A complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation or bullying must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination.

        The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension.

    d. Complaints should be filed in writing and signed by the complainant. If a complainant is unable to put his/her complaint in writing, for example, due to conditions such a disability or illiteracy, district staff shall assist him/her in the filing of the complaint.

    e. If a complaint is not filed in writing but the district receives notice of any allegation that is subject to the UCP, the district shall take affirmative steps to investigate and address the allegations, in a manner appropriate to the particular circumstances.

        If the allegation involves retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and the investigation reveals that discrimination has occurred, the district will take steps to prevent the recurrence of discrimination and correct its discriminatory effects on the complainant, and on others, if appropriate.

    f. A student enrolled in a public school shall not be required to pay a fee for his/her participation in an

educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities.

g. The Board is required to adopt and annually update the LCAP in a manner that includes meaningful engagement of parents/guardians, students and other stakeholders in the development and/or review of the LCAP.

h. A foster youth shall receive information about educational rights related to his/her educational placement, enrollment in and checkout from school, as well as the responsibilities of the district liaison for foster youth to ensure and facilitate these requirements and to assist the students in ensuring proper transfer of his/her credits, records and grades when he/she transfers between schools or between the district and other district.

i. A foster youth or homeless student who transfers into a district high school or between district high schools shall be notified of the district's responsibility to:

    i. Accept any coursework or part of the coursework that the student has satisfactorily completed in another public school, juvenile court school, or nonpublic, nonsectarian school or agency, and to issue full or partial credit for the coursework completed.

    ii. Not require the student to retake any course or a portion of a course which he/she has satisfactorily completed in another public school, juvenile court school, or a nonpublic, nonsectarian school or agency.

    iii. If the student has completed his/her second year of high school before the transfer, provide the student information about district-adopted coursework and Board-imposed graduation requirements from which he/she may be exempted pursuant to Education Code 51225.1.

j. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 30 calendar days of receiving the district's decision.

    In any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation or bullying), the respondent also shall have the right to file an appeal with the CDE in the same manner as the complainant, is he/she is dissatisfied with the district's decision.

k. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision**.**

District Responsibilities

Any school personnel that witnesses an act of discrimination, harassment, intimidation or bullying towards students must take immediate steps to intervene when safe to do so.

All UCP-related complaints shall be investigated and resolved with 60 calendar days of the district's receipt of the complaint unless the complainant agrees in writing to an extension of the timeline (5 CCR 4631).

For complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation or bullying), the district shall inform the respondent when the complainant agrees to an extension of the timeline for investigating and resolving the complaint.

The compliance office shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in the allegations shall be notified when a complaint is filed and when a decision or ruling is made. However, the compliance officer shall keep all complaints or allegations of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation or bullying) confidential except when disclosure is necessary to carry out the investigation, take subsequent corrective action, conduct ongoing monitoring or maintain the integrity of the process (5 CCR 4630, 4964).

Step 1: Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing

each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

Complaints shall be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs and special education programs may be filed by any individual, public agency, or organization. (5 CCR 4630)

2. Any complaint alleging noncompliance with law regarding the prohibition against requiring students to pay student fees, deposits and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred (Education Code 49013, 52075, 5 CCR 4630).

3. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation or bullying) shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination.

   The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting for forth the reasons for the extension (5 CCR 4630).

4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when he/she is not the complainant, requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Step 2: Mediation

Within three business days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation.

Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate.

If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed to through mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in the administrative regulation.

Step 3: Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint.

Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. He/she shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

The respondent's refusal to provide the district investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

The compliance officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 4: Report of Findings

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)
In resolving any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent also shall be sent the district's decision and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Step 5: Final Written Decision

The district's decision on how it will resolve the complaint shall be in writing and sent to the complainant and respondent. (5 CCR 4631)

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to

a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the district's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

The decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:

    a. Statements made by any witnesses.

    b. The relative credibility of the individuals involved.

    c. How the complaining individual reacted to the incident.

    d. Any documentary or other evidence relating to the alleged conduct.

    e. Past instances of similar conduct by any alleged offenders.

    f. Past false allegations made by the complainant.

2. The conclusion(s) of law.

3. Disposition of the complaint.

4. Rationale for such disposition.

    For complaints of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

    The determination of whether a hostile environment exists may involve consideration of the following:

    a. How the misconduct affected one or more students' education.

    b. The type, frequency, and duration of the misconduct.

    c. The relationship between the alleged victim(s) and offender(s).

    d. The number of persons engaged in the conduct.

5. Corrective actions, if any are warranted, including actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600.

    For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

    a. The corrective actions imposed on the respondent.

    b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.

    c. Systemic measures the school or district has taken to eliminate a hostile environment and prevent recurrence.

d. The size of the school, location of the incidents, and context in which they occurred.

e. Other incidents at the school involving different individuals.

For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

a. The corrective actions imposed on the respondent

b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.

c. Systemic measures the school or district has taken to eliminate a hostile environment and prevent recurrence.

6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE (Education Code 262.3).

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law (Education Code 262.3).

3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling.

2. Academic support.

3. Health services.

4. Assignment of an escort to allow the victim to move safely about campus.

5. Information regarding available resources and how to report similar incidents or retaliation.

6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim.

7. Restorative justice.

8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation.

9. Determination of whether any past actions of the victim that resulted in discipline were related to the

treatment the victim received and described in the complaint.

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law.
2. Parent/guardian conference.
3. Education regarding the impact of the conduct on others.
4. Positive behavior support.
5. Referral to a student success team.
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law.
7. Disciplinary action, such as suspension or expulsion, as permitted by law.

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

If a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, a Course Period without Education Content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education (Education Code 49013, 51222, 51223, 51228.3, 52075). In LCAP and pupil fee complaints, the remedy shall go to all affected pupils, parents and guardians subject to procedures established through regulations adopted by the state board.

The district will attempt in good faith by engaging reasonable efforts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.

5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or his/her designee shall forward the following documents to the CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint.
2. A copy of the decision.
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision.
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator.
5. A report of any action taken to resolve the complaint.
6. A copy of the district's complaint procedures.
7. Other relevant information requested by the CDE.

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

Policy 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 11/17/2008 **| Last Revised Date:** 03/22/2021 **| Last Reviewed Date:** 03/22/2021

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

The Sweetwater Union High School District desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board of Trustees prohibits, at any school or district activity, unlawful discrimination, including discriminatory harassment, intimidation and bullying targeted at any student by anyone, based on the student's actual or perceived age; gender, gender identity or expression, or genetic information; sex, actual or potential parental, family, or marital status that treats students differently on the basis of sex; race, color, religion, ancestry, national origin, ethnic group identification, physical or mental disability, sexual orientation, immigration status; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. The Board shall promote programs that ensure discriminatory practices are eliminated in all district activities.

The Governing Board shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

The Governing Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

Students who harass, bully, intimidate and/or retaliate against other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

The Governing Board hereby designates the following position as Director for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:

Chief Compliance Officer
670 L Street, Suite G
Chula Vista, CA 91911
(619) 796-7720
compliance@sweetwaterschools.org

Any student who feels that he/she is being harassed should immediately contact the Director for Nondiscrimination, the principal or any other staff member. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint.

Employees who become aware of an act of harassment shall immediately report the incident to the Director for Nondiscrimination or the site principal. The Director shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

Policy
adopted: November 17, 2008
revised: April 12, 2011
revised: January 28, 2019
revised: March 8, 2021
revised: March 22, 2021

Policy 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 11/17/2008 **| Last Revised Date:** 02/11/2019 **| Last Reviewed Date:** 02/11/2019

The Board of Trustees is committed to maintaining a learning environment that is free of sexual harassment of any student by any employee, student, or other person at school at any school-related activity. The Board prohibits, at school or at 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.

Criminal or civil charges may be brought against the alleged harasser. Sexual harassment may be considered a violation of laws relating to child abuse.

The district strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who has experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact his/her teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a 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.

The Superintendent or designee shall 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:

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 incidents of sexual harassment even where the alleged 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 prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students.

6. Information about the 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 investigation of a sexual harassment complaint continues.

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

Reporting and Investigating Requirements

Employees are required to report any alleged sexual harassment to the appropriate administrator or be subject to

disciplinary action up to and including dismissal.

Students shall be informed to immediately contact a staff member if they feel they are victims of sexual harassment. Within 24 hours, staff shall report complaints of sexual 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 principal/administrator or designee shall immediately investigate any report of the sexual harassment of a student.

Upon verifying that sexual harassment occurred, he/she shall ensure that appropriate action is promptly taken to end the sexual harassment, address its effects on the person subjected to the harassment, and prevent any further instances of the sexual harassment as outlined in Administrative Regulation 5145.7. In addition, the student may file a formal complaint using the district's uniform complaint procedures.

If the Superintendent or the principal of the school in which the student learner is enrolled determines that the student has committed sexual harassment as defined in Education Code 212.5, which is determined to be sufficiently severe or pervasive as to have an intimidating, hostile, or offensive educational environment, the student may be suspended from school or recommended for expulsion.

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student in violation of Education Code Section 212.5 shall be subject to discipline, up to and including having their employment terminated, as appropriate and in accordance with law and the applicable collective bargaining agreement.

Investigations Shall be Confidential

The district prohibits retaliatory behavior against any complainant or any participant in the complaint process. Information related to a complaint of sexual 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.

Superintendent to Develop Regulations

The Superintendent shall formulate such administrative regulations as necessary to implement this Board policy.

Regulation 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 11/17/2008 **| Last Revised Date:** 10/07/2025 **| Last Reviewed Date:** 10/07/2025

The district designates the following individual as the responsible employee 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 work with designated administrators to investigate and resolve sexual harassment complaints pursuant to this Administrative Regulation. This district official may be contacted at:

Chief Compliance Officer
670 L Street, Suite G
Chula Vista, CA 91911
(619) 600-4900
compliance@sweetwaterschools.org

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from or in the educational setting, under any of the following conditions: (Education Code 212.5)

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

Prohibited types of conduct which may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual flirtations or propositions.
2. Sexual slurs, leering, 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, notes, stories, drawings, pictures, or gestures.
5. Spreading sexual rumors.
6. Teasing or sexual remarks about students enrolled in a predominantly single gender class.
7. Touching an individual's body or clothes in a sexual way.
8. Purposefully cornering or blocking normal movements.
9. Limiting a student's access to educational program or resources.
10. Displaying sexually suggestive objects, drawings or photographs.
11. Profanity, inappropriate offensive and profane language (without intent to harm).
12. Sexual assault, sexual battery, or sexual coercion.
13. 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.

Sexual harassment by a student may result in suspension and/or expulsion from school, pursuant to Education Code 48900.2 and 48915(e). Nothing within this regulation shall require or justify delay of consideration or imposition of the procedures leading to student discipline based upon sexual harassment.

Individuals receiving information regarding sexual harassment shall also implement any requirements to report to the appropriate child protective service to the extent required by law.

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 at the beginning of this Administrative Regulation. 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.

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.

No complaining party, witness, or participant in the investigation shall suffer retaliation for making of any complaint of sexual harassment or for cooperating in the investigation. Retaliation may be reported by the complaining party, witness, or participant in the investigation directly to the Director of Student Support Services or the district Superintendent immediately and within two weeks of the alleged retaliation. Any act of improper retaliation shall result in appropriate discipline.

This regulation is intended to comply with state and federal requirements regarding sexual harassment complaints and shall be interpreted and adjusted accordingly. This regulation and the procedures within this regulation shall supersede other more general procedures within Board policies and administrative regulations, as well as within collective bargaining agreements unless another process is explicitly, in writing, and designated as superseding this process.

Sexual harassment complaints can be filed with any administrator or specifically with the compliance officer specified at the beginning of the Administrative Regulation.

Investigation of Complaints at School(s) or School Activity(s)

The principal or appropriate administrator or designee shall promptly investigate all complaints of sexual harassment. If the principal is the accused involved, or a conflict of interest exists, the complainant shall be referred to the Chief Compliance Officer, who shall appoint an investigator other than the accused principal. The investigator shall consider talking individually with at least:

1. The student who has reported the sexual harassment.
2. The person accused of harassment.
3. Anyone who saw the harassment take place.
4. Anyone mentioned as having related information.
5. The parent/guardian of students involved.

Individuals interviewed, especially those who are not parties to the complaint, should be encouraged to maintain the confidentiality of the parties.

The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing. The investigating administrator shall provide appropriate assistance to a complaining party who, as a result of disability or language, requires assistance in writing a complaint.

The identity of the complainant alleging sexual harassment shall remain as confidential as possible under the

circumstances; however, confidentiality should not be promised to any individual (due to potential future legal requirements relating to disclosures). When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal, designee, or investigating administrator may also discuss the complaint with at least the following persons:

1. The Superintendent or designee.
2. The parent/guardian or other legal representative of the student who complained.
3. The parent/guardian or other legal representative of the person accused of harassing someone.
4. Any teacher or staff member whose knowledge of the student(s) involved may help in determining the actual facts of the incidents.
5. Child protective agencies and local law enforcement agencies responsible for investigating child abuse reports as required by law.
6. Legal counsel for the district, after approval from the appropriate district official.

When the student who complained and the person accused of harassment so agree, the principal/administrator, designee or investigator may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is requested.

The principal, designee, or investigator shall tell the student who complained that he/she has the right to file a formal complaint at any time in accordance with the district's uniform complaint procedures, pursuant to Administrative Regulation 1312.3 or with local law enforcement agencies. If the student wishes to file a formal district complaint, the principal or designee shall assist the student in doing this.

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 who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to 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 actions 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.

In reaching a decision about the complaint, the principal or designee may take into account at least:

1. Statements made by the persons identified above.
2. The details and consistency of each person's account.
3. Evidence of how the reporting student reacted to the incident.
4. Evidence of past instances of harassment by the accused person.
5. The subject(s) of harassment.
6. The place and situation where the incident occurred.
7. Other incidents at the school, including incidents of harassment that were not related to sex.
8. Those factors listed within this sexual harassment regulation, within part I, subparts A, B, C, as well as other statutory and regulatory guidelines.

The principal, designee or investigator shall write a report of his/her findings, decision, and reasons for the decision

and shall present this report to the student who complained and the person accused. This written report should be issued whenever practical no later than thirty days from receipt of the complaint. The decision shall also include notice of the right of the complainant or the victim to appeal the decision within five calendar days of its issuance, to:

Director of Student Support Services
1130 Fifth Avenue
Chula Vista, CA 91911
student.services@sweetwaterschools.org

The principal, designee or investigator shall provide the Director of Student Support Services a written report of the complaint, investigation, finding and decision. If he/she verifies that sexual harassment occurred, this report shall describe the actions he/she took to end the harassment, address the effects of the harassment on the person harassed, and prevents retaliation or further harassment.

Within two weeks after receiving the complaint, the principal, designee, or investigator shall determine whether or not the student who complained has been further harassed.

If the complainant or alleged victim is dissatisfied with the decision issued by the principal, designee, or investigator, an appeal may be filed in writing, to be received no later than five calendar days after the issuance of the decision, in the Office of the Director of Student Support Services or his/her designee. The appeal shall state the grounds of the disagreement with the decision.

Any appeal to the Director of Student Support Services or his/her designee should result in a written decision sent to the complainant and the person accused within sixty calendar days from the complaint's original receipt by a district official, unless agreed otherwise or unless due to particular circumstances, additional time is appropriate and the complainant is informed of the extension in writing. The decision of the Director or his/her designee shall include notice of whatever appeal rights exists, including any right to appeal to the California Department of Education and the procedures for initiating any such appeal.

Pursuant to Education Code 262.3, persons who have filed a complaint with an educational institution are advised that civil law remedies, including but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to complainants. Pursuant to subdivision (d) of 262.3(d), a person who alleges that he/she is a victim of discrimination may not seek civil remedies pursuant to Education Code 262.3 until at least sixty days have elapsed from the filing of an appeal to the State Department of Education pursuant to Title 5 of the California Code of Regulations (commencing with section 4600).

Enforcement and Notification

The Superintendent, designee or appropriate district official(s) shall take the appropriate actions to reinforce the district's sexual harassment policy at the site. These site actions include the following:

1. Remove known vulgar or offending graffiti in a timely manner.

2. Provide student instruction including information in the student handbook as part of any orientation program conducted for students at the beginning of each semester or summer session, and a copy of this district's written policy on sexual harassment as pertaining to students.

3. Provide staff instruction as a part of the initial staff meeting at the beginning of each school year or summer session (or, as to new employees, upon hiring) including notice of this regulation and a copy of the district's written policy on sexual harassment.

4. Provide counseling as needed.

5. Notify parents/guardians through the annual notification of parent/student rights and responsibilities.

6. Notify child protective agencies and local law enforcement agencies responsible for investigating child abuse reports as required by law.

7. Take appropriate disciplinary action. In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

8. Post district sexual harassment policies and regulations in a prominent location in the administration office.

Policy 5145.13: Response To Immigration Enforcement

Status: ADOPTED

Original Adopted Date: 01/28/2019 **| Last Reviewed Date:** 01/28/2019

The Board of Trustees is committed to the success of all students and believes that every school site should be a safe and welcoming place for all students and their families irrespective of their citizenship or immigration status. District staff shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district schools, except as may be required by state and federal law. (Education Code 234.7)

No student shall be denied equal rights and opportunities nor be subjected to unlawful discrimination, harassment, intimidation, or bullying in the district's programs and activities on the basis of his/her immigration status. (Education Code 200, 220, 234.1)

The Superintendent or designee shall notify parents/guardians regarding their children's right to a free public education regardless of immigration status or religious beliefs and their rights related to immigration enforcement. (Education Code 234.7)

Consistent with requirements of the California Office of the Attorney General, the Superintendent or designee shall develop procedures for addressing any requests by a law enforcement officer for access to district records, school sites, or students for the purpose of immigration enforcement.

Teachers, school administrators, and other school staff shall receive training regarding immigration issues, including information on responding to a request from an immigration officer to visit a school site or to have access to a student.

The Superintendent or designee shall report to the Board in a timely manner any requests for information or access to a school site by an officer or employee of a law enforcement agency for the purpose of enforcing the immigration laws. Such notification shall be provided in a manner that ensures the confidentiality and privacy of any potentially identifying information. (Education Code 234.7)

Regulation 5145.71: Title IX Sexual Harassment Complaint Procedures

Status: ADOPTED

Original Adopted Date: 03/02/2021 | **Last Revised Date:** 01/23/2023 | **Last Reviewed Date:** 01/23/2023

Definitions

For the purpose of this administrative regulation, the following terms are defined as follows:

1. The *Title IX Coordinator* is the district's Chief Compliance Officer.

   Chief Compliance Officer
   670 L Street, Suite G
   Chula Vista, CA 91911
   (619) 600-4900
   compliance@sweetwaterschools.org

2. The *investigator of a formal complaint* is the designated school site assistant principal or designee, who has received all required Title IX training and does not have a conflict of interest. If needed, another designee, who is not involved in the matter, can be designated as investigator by the Title IX Coordinator.

3. The *decision-maker* is the school site principal, who has received all required Title IX training and does not have a conflict of interest, or as needed, another person as designated by the Superintendent not involved in the investigation of the matter and who does not have a conflict of interest.

4. The *Appeals Officer* is the Chief of Education Equity and Student Support Services, or as needed, another person as designated by the Superintendent not involved in the investigation of the matter and who does not have a conflict of interest.

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a student was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

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, on the basis of sex, as defined in 20 USC 1092 or 34 USC 12291:

   - Forcible Sexual Assault includes any sexual act directed against a student, forcibly, against the student's will, or without consent, including rape, sodomy, sexual assault with an object, and/or fondling. (See 20 USC 1092(f)(6)(A)(v).)

   - Non-forcible Sexual Assault includes offenses that do not involve force where the student is incapable of giving consent, including statutory rape and incest. (See 20 USC 1092(f)(6)(A)(v).)

   - Dating Violence includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the student, where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship and/or the frequency of interaction between the persons involved in the relationship. (See 34 USC 12291(a)(10).)

   - Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the student. (See 34 USC 12291(a)(8).)

   - Stalking, which includes engaging in a course of conduct directed at a student that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. (See 34 USC 12291(a)(30).)

All other sexual harassment complaints shall be investigated and responded to pursuant to AR 5145.7 - Sexual

Harassment.

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator using the contact information listed above and in AR 5145.7 - Sexual Harassment.

Upon receiving such a report, the Title IX Coordinator or school site Title IX Coordinator designee, who has received all required Title IX training and does not have a conflict of interest, shall inform the complainant of the process for filing a formal complaint.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator or school site Title IX Coordinator designee, who has received all required Title IX training and does not have a conflict of interest, shall file a formal complaint in situations in which a safety threat exists. In addition, the Title IX Coordinator or designee may file a formal complaint in other situations as permitted under the Title IX regulations. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator or school site Title IX Coordinator designee, who has received all required Title IX training and does not have a conflict of interest, in person, by mail, or by email. (34 CFR 106.30)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

Supportive Measures

Upon receipt of a report of Title IX sexual harassment, even if a formal complaint is not filed, the Title IX Coordinator or school site Title IX Coordinator designee, who has received all required Title IX training and does not have a conflict of interest, shall promptly contact the complainant to discuss the availability of supportive measures, which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such 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. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

Emergency Removal from School

On an emergency basis, the district may remove a student 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 student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint that did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer enrolled or employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined

in 34 CFR 106.30, the conduct may still be addressed pursuant to BP/AR 1312.3 - Uniform Complaint Procedures, as applicable.

Informal Resolution Process

The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. The District may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the District may facilitate an informal resolution process provided that the District (34 CFR Section 106.45(b)(9)):

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process.

3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Formal Complaint Process

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process.

2. 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.

   If, during the course of the investigation, the district investigates allegations about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. 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.

4. 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.

5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process.

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall provide either party with no less than three calendar days to raise concerns of conflict of interest or bias regarding any of these persons.

During the investigation process, the district shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

3. 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.

4. 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.

5. 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.

6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence that is directly related to the allegations raised in the complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence obtained by a party or other source, so that each party can meaningfully respond to the evidence. The parties are provided at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report.

7. 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.

8. 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.

9. 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.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The District shall maintain confidentiality and/or privacy rights of all parties to the complaint in accordance with applicable state and federal laws, except as may be permitted or required by law or to carry out the purposes of this formal Title IX complaint process.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The District complaint process shall 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 the privilege has waived the privilege. (34 CFR Section 106.45(b)(1)(x))

The District may consolidate formal complaints as to allegations of sexual harassment against one or more respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. (34 CFR Section 106.45(b)(4))

When investigating a formal complaint and throughout the complaint process, the District shall ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties, provided that the District cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for a complaint process under this section (if a party is not an "eligible student," as defined in 34 CFR 99.3, then the District shall obtain the voluntary, written consent of a "parent," as defined in 34 CFR Section 99.3. (34 CFR Section 106.45(b)(5)(i))

Written Decision

The Superintendent has designated the school site principal as the decision-maker, or another qualified individual

(who is not the Title IX Coordinator or another person involved in the investigation of the matter) in the event of a conflict of interest, to determine responsibility for the alleged conduct. (34 CFR 106.45)

After the investigative report has been sent to the parties, but before reaching a determination regarding responsibility, the decision-maker shall 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.

The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. (34 CFR Section 106.45(b)(6)(ii))

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. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

While the district understands that it must follow a reasonably prompt timeframe, the district may temporarily extend the timeline for good cause with written notice provided to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the district 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 students as for complaints against employees. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30.

2. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30.

3. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process.

4. The district's procedures and permissible bases for the complainant and respondent to appeal.

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant.

6. Conclusions regarding the application of the district's code of conduct, policies, and/or regulations to the facts.

7. Findings of fact supporting the determination.

Appeals

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 by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

2. Ensure that the Appeals Officer is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

4. Issue a written decision describing the result of the appeal and the rationale for the result.

5. Provide the written decision simultaneously to both parties.

The written decision regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. (34CFR Section 106.45(b)(7)(iii))

An appeal must be filed in writing within five calendar days of receiving the determination, 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. Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

A written decision shall be provided to the parties within seven calendar days from the date of written notice of the appeal to both parties.

Remedies

The complaint process must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following the complaint process before the imposition of any disciplinary sanctions or other actions against a respondent. Remedies must be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include the same individualized services described in 34 CFR Section(s) 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. (34 CFR Section 106.45(b)(1)(i))

The Title IX Coordinator is responsible for the effective implementation of any remedies. (34CFR Section 106.45(b)(7)(iv))

Corrective/Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law

2. Parent/guardian conferences, detentions, Saturday schools, or in-school suspensions

3. Education of the student regarding the impact of the conduct on others

4. Positive behavior support

5. Referral of the student to a student success team

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

Record-Keeping

The Superintendent or designee shall maintain for a period of seven years 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, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

The Superintendent or designee shall also maintain, for a period of seven years, 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. (34 CFR 106.45)

Regulation 4119.12: Title IX Sexual Harassment Complaint Procedures

Status: ADOPTED

Original Adopted Date: 03/02/2021 | **Last Revised Date:** 10/27/2026 | **Last Reviewed Date:** 10/27/2026

The Title IX Coordinator is the district's Chief Compliance Officer, available at:

Chief Compliance Officer
670 L Street, Suite G
Chula Vista, CA 91911
(619) 600-4900
compliance@sweetwaterschools.org

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee, 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: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person'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 person equal access to the district's education program or activity.

3. Sexual assault, dating violence, domestic violence, or stalking, on the basis of sex, as defined in 20 USC 1092 or 34 USC 12291.

- Forcible Sexual Assault incudes any sexual act directed against another, forcibly, against the other's will, or without consent, including rape, sodomy, sexual assault with an object, and/or fondling. (See 20 USC 1092(f)(6)(A)(v).)
- Non-forcible Sexual Assault includes offenses that do not involve force where the other individual is incapable of giving consent, including statutory rape and incest. (See 20 USC 1092(f)(6)(A)(v).)
- Dating Violence includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature, where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship and/or the frequency of interaction between the persons involved in the relationship. (See 34 USC 12291(a)(10).)
- Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner. (See 34 USC 12291(a)(8).)
- Stalking which includes engaging in a course of conduct directed at an individual that would cause a reasonable personable person to fear for their safety or others or suffer substantial emotional distress. (See 34 USC 12291(a)(30).)

All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4119.11 – Sexual Harassment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.

Because the complainant has a right to pursue a complaint under AR 4119.11 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4119.11 are concurrently met while implementing the Title IX procedure.

Reporting Allegations/Filing a Formal Complaint

An employee who is the alleged victim of sexual harassment may submit a report of sexual harassment to the district's Title IX Coordinator using the contact information listed above and in AR 4119.11 - Sexual Harassment or to the employee's direct supervisor or other district administrator, who shall forward the report to the Title IX Coordinator within one day of receiving the report.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the right to file a formal complaint and the process for filing a formal complaint.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.

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. (34 CFR 106.45)

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 supportive 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 not unreasonably burden 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, extensions of deadlines, modifications of work schedules, mutual restrictions on contact, changes in work locations, leaves of absence, increased security, and monitoring of certain areas of the campus. (34 CFR 106.30, 106.44)

The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

Emergency Removal

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the district may, on an emergency basis, remove the student 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 student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual

harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

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 "Appeals" below. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to AR 4030 - Nondiscrimination in Employment as applicable.

Informal Resolution Process

The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, an LEA may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the District (34 CFR Section 106.45(b)(9)):

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

2. Obtains the parties' voluntary, written consent to the informal resolution process.

3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process.

2. 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.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the

parties.

3. 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.

4. 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.

5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process.

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker, and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

Investigation Procedures

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

3. 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.

4. 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.

5. 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.

6. 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, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibilities and

inculpatory or exculpatory evidence obtained by a party or other source, so that each party can meaningfully respond to the evidence. The parties are provided at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report.

7. 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.

8. 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.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45)

The District shall maintain confidentiality and/or privacy rights of all parties to the complaint in accordance with applicable state and federal laws, except as may be permitted or required by law or to carry out the purposes of this formal Title IX complaint process.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The District shall 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 the privilege has waived the privilege. (34 CFR Section 106.45(b)(1)(x))

The District may consolidate formal complaints as to allegations of sexual harassment against one or more respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. (34 CFR Section 106.45(b)(4))

When investigating a formal complaint and throughout the complaint process, the District shall ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties, provided that the District cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so.

Written Decision

The Superintendent or designee shall designate an appropriately trained person 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. (34 CFR 106.45)

After the investigative report has been sent to the parties, but before reaching a determination regarding responsibility, the decision-maker shall 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.

The decision-maker shall explain to the party proposing the questions any decision to exclude a question as not relevant. (34 CFR Section 106.45(b)(6)(ii))

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. (34 CFR 106.45)

The written decision shall be issued within 70 business days of the receipt of the complaint.

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. (34 CFR 106.45)

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30.

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process.

3. Findings of fact supporting the determination.

4. Conclusions regarding the application of the district's code of conduct, policies, and/or regulations to the facts.

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant.

6. The district's procedures and permissible bases for the complainant and respondent to appeal.

Appeals

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 by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

4. Issue a written decision describing the result of the appeal and the rationale for the result.

5. Provide the written decision simultaneously to both parties.

The written determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. (34CFR Section 106.45(b)(7)(iii))

An appeal must be filed in writing within 5 business 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. A written decision shall be provided to the parties within 20 business days from the receipt of the appeal.

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.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

Remedies

The complaint process must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following the complaint process before the imposition of any disciplinary sanctions or other actions against a respondent. Remedies must be designed to restore or preserve equal access to the LEA's education program or activity. Such remedies may include the same individualized services described in 34 CFR Section(s) 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. (34 CFR Section 106.45(b)(1)(i))

The Title IX Coordinator is responsible for effective implementation of any remedies. (34CFR Section 106.45(b)(7)(iv))

Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

Timeframes

The formal grievance process shall be completed within a reasonably prompt timeframe following the submission of a formal complaint. Every effort shall be made to complete all stages of the process, including the filing and resolution of appeals and any informal resolution procedures, within ninety (90) business days. Extensions beyond this period may be permitted for good cause.

Record-Keeping

The Superintendent or designee shall maintain, for a period of seven years: (34 CFR 106.45)

1. 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.

2. 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 circumstances.

3. 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.

SWEETWATER
UNION HIGH SCHOOL DISTRICT

COMPLIANCE OFFICE

670 L Street, Suite G · Chula Vista, California, 91911
(619) 600-4900
Compliance@sweetwaterschools.org

Assurance of Nondiscrimination

The Sweetwater Union High School District shall be free from discrimination, harassment, intimidation and bullying against an individual or group based on age; gender, gender identity or expression, or genetic information; sex, actual or potential parental, family, or marital status that treats students differently on the basis of sex; race, color, religion, ancestry, national origin, immigration status, ethnic group identification, physical or mental disability, sexual orientation; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. The Board of Trustees is determined to provide employees and job applicants a safe, positive environment where they are assured full and equal employment access and opportunities, protection from harassment, intimidation, bullying, and freedom from fear of retaliation for asserting their rights in accordance with the law. The Board shall promote programs that ensure discriminatory practices are eliminated in all district activities. The Sweetwater Union High School District requires that school personnel take immediate steps to intervene when safe to do so when they witness an act of discrimination, harassment, intimidation, or bullying.

For more information, please refer to SUHSD Board Policy 0410 - Nondiscrimination in District Programs and Activities/Title IX.

Questions or complaints of alleged discrimination, harassment, intimidation, and bullying, as well as Title IX-related concerns, should be directed to the following individuals:

Compliance-Title IX Coordinator: Robert Hughes | Chief Compliance Officer 670 L Street, Suite G Chula Vista, CA 91911 (619) 600-4900 robert.hughes@sweetwaterschools.org	Equity Compliance Officer/Title IX Appeals Officer: Dr. Vernon Moore | Asst. Superintendent, Equity & Support Services 1130 Fifth Avenue Chula Vista, CA 91911 (619) 691-5564 vernon.moore@sweetwaterschools.org
Student Nondiscrimination/504: Sonia Picos | Director, Student Support Services 1130 Fifth Avenue Chula Vista, CA 91911 (619) 691-5564 sonia.picos@sweetwaterschools.org	Special Education: Michelle Sturm-Gonzalez | Director, Special Services 670 L Street, Suite A Chula Vista, CA 91911 (619) 796-7500 michelle.sturm-gonzalez@sweetwaterschools.org

Important Links:

Annual Notifications
- Annual Notification
- Annual Notification Addendum

Pupil Nondiscrimination
- BP 0410: Nondiscrimination in District Programs & Activities
- BP 5145.3, AR 5145.3: Nondiscrimination/Harassment

Pupil Sexual Harassment/Title IX
- BP 5145.7, AR 5145.7: Sexual Harassment
- AR 5145.71: Title IX Sexual Harassment Complaint Procedure

504 Nondiscrimination
- BP 6164.6, AR 6164.6: Identification & Education Under Section 504

09.17.2026

Sweetwater Union High School District "programs and activities shall be free from discrimination, harassment, intimidation and bullying against an individual or group based on actual or perceived age; gender, gender identity or expression, or genetic information; sex, actual or potential parental, family, or marital status that treats students differently on the basis of sex; race, color, religion, ancestry, national origin, ethnic group identification, physical or mental disability, medical condition, pregnancy, reproductive health decision-making, sexual orientation, immigration status, veteran or military status; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics." *SUHSD Board Policy 0410*