

SEXUAL HARASSMENT

The Board of Trustees is committed to maintaining a safe school environment that is free from harassment and discrimination. 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.

(cf. 0410 – Nondiscrimination in District Programs and Activities)

(cf. 5131 – Conduct)

Cf. 5131.2 – Bullying)

(cf. 5137 – Positive School Climate)

(cf. 5145.3 – Positive School Climate)

The District strongly encourages ~~any~~ students who feels that ~~he/she is~~ **they are** being or **has have** been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult who has experienced off-campus sexual harassment that has a continuing effect on campus to immediately contact ~~his/her~~ **their** teacher, the principal, **the District’s Title IX Coordinator**, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the ~~principal or a District compliance officer~~ **Title IX Coordinator**.

Once notified, the ~~principal or compliance officer~~ **Title IX Coordinator** shall ~~take the steps to investigate and address the allegation,~~ **ensure the complaint is addressed through Title IX complaint procedures or uniform complaint procedures, as applicable, and shall offer supportive measures to the complainant as specified in the accompanying administrative regulation.**

(cf. 0410 – Nondiscrimination in District Programs and Activities)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. Uniform Complaint Procedures)

(cf. 5131 – Conduct)

(cf. 5131.2 – Bullying)

(cf. 5137 – Positive School Climate)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 – Nondiscrimination/Harassment)

(cf. 5145.71 – Title IX Sexual Harassment Complaint Procedures)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

The Superintendent or designee ~~shall take appropriate actions to reinforce~~ **inform students and parents/guardians** of the District's sexual harassment policy **by disseminating it through parent/guardian notifications, publishing it on the District’s web site, and including it in student and staff handbooks. All District staff shall be trained regarding the 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:

SEXUAL HARASSMENT (continued)

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~~ **when** 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~~ **respond to** harassment, prevent recurrence, and address any continuing effect on students
6. Information about the District's procedures for investigating complaints and the person(s) to whom a report of sexual harassment should be made
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the District investigation of a sexual harassment complaint continues
8. A clear message that, when needed, the District will ~~take interim~~ **implement supportive** measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation ~~and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment~~

~~Complaint Process and Disciplinary Actions~~

~~Sexual harassment complaints by and against students shall be investigated and resolved in accordance with law and District procedures specified in AR 1312.3—Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.~~

~~(cf. 1312.3—Uniform Complaint Procedures)~~

SEXUAL HARASSMENT (continued)

Upon **completion of an** investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall ~~have his/her employment terminated~~ **be subject to disciplinary action, up to and including dismissal**, in accordance with law and the applicable collective bargaining agreement.

(cf. 4117.7 - Employment Status Report)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)

Record-Keeping

In accordance with law, ~~the~~ Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the District to monitor, address, and prevent repetitive harassing behavior in District schools.

(cf. 3580 - District Records)

*Legal Reference:*EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

48985 Notices, report, statements and records in primary language

CIVIL CODE

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

1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

12950.1 Sexual harassment training

Legal Reference: (continued next page)

SEXUAL HARASSMENT (continued)

Legal Reference: (continued)

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1092 *Definition of sexual assault*

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX, ~~discrimination~~ *of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 34

12291 *Definition of dating violence, domestic violence, and stalking*

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

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

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:

CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Boards of Trustees to Ensure Student Success, 2011

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Transgender Students, May 2016

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Sexual Violence, April 4, 2011

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

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Policy

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BEAUMONT UNIFIED SCHOOL DISTRICT

Beaumont, California