

## **BP 5145.7 Students**

### **SEXUAL HARASSMENT**

The Governing Board is committed to maintaining an educational environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students by other students, employees, or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in district complaint processes.

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

(cf. 1312.3 - Uniform Complaint Procedures)

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

#### **Instruction/Information**

The Director or designee shall ensure that all district students receive age-appropriate instruction and 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.
2. A clear message that students do not have to endure sexual harassment.
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained.
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made.

(cf. 5131.5 - Vandalism and Graffiti) (cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

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

#### **Complaint Process**

Any student who feels that he/she is being or has been sexually harassed by a school employee, another student, or a non-employee on school grounds or at a school-related activity (e.g., a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

The Director or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Director or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

#### **Disciplinary Actions**

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in

grades 4-8, 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. 5131 - Conduct)

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

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

### **Confidentiality and Record-Keeping**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

The Director 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 the schools.

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

#### **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

#### **CODE OF REGULATIONS, TITLE 5**

4600-4687 Uniform Complaint Procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

#### **UNITED STATES CODE, TITLE 20**

1681-1688 Title IX, discrimination

#### **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**

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:

OFFICE FOR CIVIL RIGHTS PUBLICATIONS  
Sexual Harassment: It's Not Academic, September 2008 Revised  
Sexual Harassment Guidance, January 2001

WEB SITES 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/index.html>

THE HEIGHTS CHARTER

Policy adopted: 11/13/2019\_\_\_\_\_