

San Francisco USD

Board Policy

Sexual Harassment

BP 5145.7

Students

The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. Sexual harassment is a form of sex discrimination under Title IX of the Education Amendments of the Civil Rights Act of 1972 and is prohibited by both federal and state laws. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting. 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.

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 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.

Complaints regarding sexual harassment 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.

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. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made;
6. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable.

Disciplinary Actions

Any student who engages in sexual harassment or sexual violence at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action and/or interventions in accordance with board policies. 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.

Any staff member found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/or collective bargaining agreements.

Record-Keeping

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. In accordance with district policy, upon completion of the investigation, the Director of Equity will destroy all interview notes and recordings. The rest of the case file will be retained in accordance with the district policy for 3 years.

Data Collection and Reporting

Principals are responsible for documenting all Sexual Harassment complaints (including all informal/verbal and formal/written complaints), into the district's online referral system, BASIS, within 48 hours of each complaint. At the end of each semester, the Department of Student, Family & Community Support will include all data related to Sexual Harassment complaints in its bi-yearly "Safe and Supportive Schools" report.

Individuals experiencing harassment or discrimination also always have the right to file a civil complaint or a formal grievance with the Office for Civil Rights:

Office for Civil Rights (OCR)
U.S. Department of Education
50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
Telephone: (415) 486-5555
Facsimile: (415) 486-5570
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

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

1221 Application of laws

1232g Family Educational Rights and Privacy Act

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

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 Governing Boards to Ensure Student Success, 2011
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
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>

HISTORY/AUTHORIZATION

ADOPTED: Resolution No. 62-3Sp1 (March 2, 1976)
AMENDED: Resolution No. 61-10Sp2 (1st Reading 1/10/2006 – 2nd Reading 3/14/2006)
AMENDED: Resolution No. 126-12Sp2 (1st Reading 6/12/2012 – 2nd Reading 6/26/12)