

e) School-Site Level Discrimination, Harassment, Intimidation, or Bullying Complaint Procedures (Administrative Regulation 5166)

Any parent or student who believes that the student **has been subjected to discrimination, harassment, intimidation, or bullying based on the pupil's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; 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**, in any District program or activity may file a complaint under this procedure.

The District prohibits retaliation in any form for the filing of a complaint; the reporting or instances of discrimination, or for participation in complaint procedures. The District acknowledges and respects students' and employees' rights to privacy. Complaints shall be investigated in a manner that protects these rights. The identity of any complainant shall be kept confidential as appropriate.

The Superintendent shall ensure that employees designated to receive and investigate complaints are knowledgeable about applicable laws and regulations. Such employee may have access to legal counsel as determined by Superintendent or designee.

I. Filing a Discrimination, Harassment, Intimidation or Bullying Complaint

1. A student, parent or guardian ("complainant") may immediately contact his/her teacher or any other employee at the student's school site if the student believes he or she has been subjected to discrimination, harassment, intimidation, or bullying. A school employee to whom a discrimination, harassment, intimidation, or bullying complaint is made verbally or in writing shall within 24 hours of receiving the complaint report it to the principal or designee.

2. In the case of discrimination, harassment, intimidation or bullying involving the principal or any other district employee to whom the complaint would ordinarily be made, the student, parent or guardian or an employee who receives the student's report or who observes the incident may file a verbal or written complaint with the Title IX Compliance Officer or the Superintendent or Designee at the following address:

Title IX Compliance Coordinator/Uniform Complaints Compliance Coordinator
Office of Equity
555 Franklin Street, Room 306
San Francisco, CA 94102
Telephone: (415) 355-7334
Fax: (415) 355-7333

In conducting the initial investigation, the Title IX Compliance Coordinator shall comply with all the rules set forth in this Administrative Regulation. In the event of an appeal of the Title IX Compliance Coordinator's decision, the appeal shall be forwarded to the SFUSD Legal Department for Resolution.

3. Any Section 504 complaints shall be forwarded to the Executive Director of Student, Family & Community Support Department for investigation and resolution. The Executive Director may be reached at 555 Portola Drive, San Francisco, (415) 695-5543.

4. A parent, guardian or student may either verbally file a complaint or complete the School Site Level Complaint Form (Attachment A) and file it with the Principal or his/her designee or the Title IX Compliance Coordinator. Copies of the School Site Level Complaint Form must be maintained at each school site.

5. The parent, guardian or student should complete the School Site Level Complaint Form by checking the appropriate box to describe the nature of his/her complaint. For example, if the parent/guardian of his or her student has been sexually harassed, the sexual harassment box should be checked. A brief description of the incident is also required.

6. If a parent, guardian or student verbally reports a complaint, the principal or designee must still investigate the complaint in compliance with the procedures set forth in this Administrative Regulation.

7. The principal or designee within five working days of the receipt of the verbal or written discrimination, harassment, intimidation or bullying complaint shall mail by first class mail or deliver an Acknowledgement of the Harassment/Discrimination Complaint to the complainant. If the complaint is verbal, the Acknowledgement Form will serve as the District verification of the existence of the complaint.

8. The principal or designee shall promptly investigate all complaints of discrimination, harassment, intimidation or bullying in a confidential and respectful manner. In doing so, he/she shall talk individually with:

- a. The student who is complaining
 - b. The person accused
 - c. Anyone who saw the incident or conduct takes place
 - d. Anyone mentioned as having related information
9. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence.
10. The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:
- a. The Superintendent or designee
 - b. The parent/guardian of the student who complained
 - c. The parent/guardian of the person accused of the discrimination or harassing conduct
 - d. The school resource officer(s) and/or Twenty-Nine Car
 - e. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
 - f. Child protective agencies responsible for investigating child abuse reports
 - g. Legal counsel for the District
 - h. Any other individual or agency authorized by state, federal, and local laws and regulations
11. When the parent or student who complained and the person accused so agree, the principal or designee, *if appropriate*, may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator.
- a. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided.
 - b. This meeting will not be compelled by the principal or designee.
 - c. The concerns of the student, parent or guardian about retaliation or safety will be taken into consideration and be given top priority when the District considers whether it is appropriate to hold this meeting.
12. In reaching a decision about the complaint, the principal or designee or Title IX Compliance Coordinator may take into account the following:
- a. Statements made by the persons identified above
 - b. The details and consistency of each person's account
 - c. Evidence of how the complaining student reacted to the incident
 - d. Evidence of any past instances of harassment by the alleged harasser
 - e. Evidence of any past harassment complaints that were found to be untrue
13. To judge the severity of the sexual harassment, the principal or designee or Title IX Compliance Coordinator may take into consideration:
- a. How the misconduct affected one or more students' education
 - b. The type, frequency, and duration of the misconduct
 - c. The number of persons involved
 - d. The age and gender of the person accused of harassment
 - e. The subject(s) of harassment
 - f. The place and situation where the incident occurred
 - g. Other incidents at the school, including incidents of harassment that were not related to gender
14. The principal or designee or Title IX Compliance Coordinator shall complete his or her investigation within ten working days of the receipt of the complaint, shall complete the investigation and 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.
15. The principal or designee shall **give the Office of Equity and Leadership, Equity, Achievement and Design (LEAD) office or designee a copy of the written report of the complaint** known as the Harassment/Discrimination Resolution Report on a monthly basis at the Elementary, Middle, High School Principal Meetings and at the Child Development Center and County Community Meetings.

16. If it is found that the discrimination, harassment, intimidation and/or bullying occurred, this report shall describe the actions taken to end the conduct, address the effects of the conduct on the student (complainant), and prevent retaliation or further discrimination, harassment, intimidation, or bullying.
17. Within two weeks after receiving the complaint, the principal or designee or Title IX Compliance Coordinator shall determine whether or not the student who complained has been further discriminated against, harassed, intimidated or bullied. A meeting must be held within two weeks of the receipt of the complaint with the student and his or her parent or guardian to determine if the discrimination, harassment, intimidation, or bullying is continuing.
18. The principal or designee shall keep a record of this information and take appropriate steps, if necessary.

II. Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the district's nondiscrimination and sexual harassment policies. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti.
2. Providing staff in-service and student instruction or counseling.
3. Notifying parents/guardians of the actions taken.
4. Notifying child protective services.
5. Taking 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 harassment/discrimination which he/she knew was not true.

III. Appeal of School Level Decision

1. Appeals of the parent, student or guardian or the accused may file the appeal of the School Level Decision by filing Harassment/Discrimination Appeal Form (Attachment D) with the Title IX Compliance Coordinator within five working days of receiving the Resolution Report.
2. The appeal shall be filed with the Title IX Compliance Coordinator either by mail, fax or hand delivery:
Title IX Compliance Coordinator/Uniform Complaints Compliance Coordinator
Office of Equity
555 Franklin Street, Room 306
San Francisco, CA 94102
Telephone: (415) 355-7334
Fax: (415) 355-7333
3. The Title IX Compliance Coordinator or designee shall confirm receipt of the appeal by issuing an Acknowledgement of the Appeal within five working days of receipt of the complaint.
4. The Title IX Compliance Coordinator shall issue his/her final decision within ten working days of the receipt of the Appeal on the Harassment/Discrimination Appeal Report by mailing the Report by First Class mail or by hand delivery.
5. The Title IX Compliance Coordinator reserves the right to delegate the appeal to the SFUSD Legal Department if there is a conflict or if the appeal concerns his/her decision.

IV. Notification

A copy of the District's Nondiscrimination/Harassment and Sexual Harassment Policies and this Administrative Regulation shall:

1. Be sent to all schools through the WAD process with instructions that the Sexual Harassment Policy *must* be posted in the Main Offices, Teacher Offices, Parent and Counseling Centers;
2. The policies and Administrative Regulation will be distributed at the Principal Meetings (High School, Middle School, and Elementary School and the Child Development Center and County School meetings) with instructions that it *must* be posted in the Main Offices, Teacher Offices, Parent and Counseling Centers.
3. Each year the policies will be printed in the Handbook which is distributed to all parents.
4. The policies and this Administrative Regulation will be posted on the SFUSD Website under the Office of Equity and Charter Schools.
5. The policies and this Administrative Regulation shall be included in any other notifications that are sent to parents/guardians at the beginning of each school year. (Education Code 48980)
6. The policies and this Administrative Regulation shall be displayed in a prominent location near the school principal's office. (Education Code 212.6)

7. The policies and this Administrative Regulation shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session. (Education Code 212.6)
8. The policies and this Administrative Regulation shall appear in any school or district publication that sets forth the schools' or District's comprehensive rules, regulations, procedures and standards of conduct. (Education Code 212.6)
9. The policies and this Administrative Regulation shall be provided to employees and employee organizations.

V. Reporting Requirements

1. The Office of Equity shall maintain a log of all sexual harassment complaints filed with the school district. On June 30 of each year, the Office of Equity shall submit the log to the Superintendent.
2. **Sexual Harassment/Discrimination Complaints shall be maintained as a student record in a separate confidential file at the school site.**

VI. School Site Incident Reports

Principals and/or their designees must still submit School Site Incident Reports to Student, Family & Community Support Department at 555 Portola Drive regardless of whether a Harassment/Discrimination Complaint is made if they have knowledge of any facts that would constitute grounds for filing a School Site Incident Report.

VII. Child Protective Services

District staff, in addition to complying with this Administrative Regulation, must still comply with its responsibilities under the Child Abuse Mandated Reporting Laws.

VIII. Remedies

Nothing in this Administrative Regulation precludes parents, guardians or students from seeking other legal remedies, including but not limited to filing a complaint with the Office of Civil Rights (OCR), or by seeking their civil and criminal remedies in the courts. The address for the Office for Civil Rights is:

U.S. Department of Education
Office for Civil Rights
One Federal Plaza, Room 239
San Francisco, CA 94102
Telephone: (415) 556-4275

The OCR's jurisdiction's under federal law covers the following areas: race, national origin, sex, disability, and age.

Note: Copies of all Attachments may be obtained from the Office of Equity. Attachment A is also included on page 121 of this Handbook.