

SEXUAL HARASSMENT

San Diego Unified School District is committed to making the schools free from sexual 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 district 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 in Education Code to mean 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 Superintendent or his/her designee shall ensure that district students receive age-appropriate instruction about their rights to be free from sexual harassment, the district procedure for reporting and investigating complaints of sexual harassment including with whom a complaint should be filed.

The Board of Education is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board 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 prohibits conduct that has the purposes or effect of having a negative impact on the individual's work or academic performance, or that is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, or offensive educational environment.

The district further prohibits sexual harassment that conditions a student's status, progress, benefits, services, honors, program or activities based on submission to such conduct.

Any student who feels that he/she is being, or has been sexually harassed by a school employee, another student, or a non-school employee at school or at a school-related event, shall immediately contact his/her teacher or any other district employee. An employee who receives such a complaint shall report it in accordance with administrative procedures.

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.

(cf. 1312.3 - Uniform Complaint Procedures)

Employees who violate this policy shall be subject to discipline up to and including dismissal. Any disciplinary action shall be in accordance with applicable federal and state laws and/or collective bargaining agreements.

Students who violate this policy may be subject to discipline, up to and including expulsion, in accordance with district policy, administrative procedure and state law.

SEXUAL HARASSMENT (continued)

The district believes that it can resolve issues of harassment and discrimination at the school site.

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. 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))

SEXUAL HARASSMENT (continued)

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.

(cf. 4117.4 - Dismissal)

(cf. 4117.7 - Employment Status Report)

(cf. 4118 - Suspension/Disciplinary Action)

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

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

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.

(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

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

SEXUAL HARASSMENT (continued)

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>

Policy
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SAN DIEGO UNIFIED SCHOOL DISTRICT
San Diego, California