

SEXUAL HARASSMENT

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 and California Education Code 234.1, as well as to investigate and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The coordinator/compliance officer(s) may be contacted at:

Director of Student Services
310 Nova Albion Way
San Rafael, CA 94903
(415) 492-3220

(cf. 1312.3 - Uniform Complaint Procedures)

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1.Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.

2.Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.

3.The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.

4.Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity.

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

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

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions

2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions

3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion

Reporting Process and Complaint Investigation and Resolution

Any student who believes that he/she has been subjected to sexual harassment or who has witnessed sexual harassment is strongly encouraged to report the incident to his/her teacher, the principal, or any other available school employee. Within one school day of receiving such a report, the school employee shall forward the report to the principal or the district's compliance officer identified in AR 1312.3. In addition, any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report his/her observation to the principal or a district compliance officer. The employee shall take these actions, whether or not the alleged victim files a complaint.

In any case of sexual harassment involving the principal, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted to the Superintendent or designee.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

When a report of sexual harassment is submitted, the principal or compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with the district's uniform complaint procedures.

If a complaint of sexual harassment is initially submitted to the principal, he/she shall, within two school days, forward the report to the compliance officer to initiate investigation of the complaint. The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and district procedures specified in AR 1312.3.

Confidentiality

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)

However, when a complainant or victim of sexual harassment notifies the district of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant or victim of sexual harassment notifies the district of the harassment but requests that the district not pursue an investigation, the district will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

Response Pending Investigation

When an incident of sexual harassment is reported, the principal or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary pending the results of the investigation. The principal/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. Such measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher, in accordance with law and Board policy. The school should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such actions shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

A copy of the district's sexual harassment policy and regulation shall be posted on district and school web sites and, when available, on district-supported social media.

(cf. 1113 - District and School Web Sites)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)

4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

~~Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)~~

- ~~1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress~~
- ~~2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student~~
- ~~3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment~~
- ~~4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity~~

~~Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:~~

- ~~1. Unwelcome leering, sexual flirtations or propositions~~
- ~~2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions~~
- ~~3. Graphic verbal comments about an individual's body, or overly personal conversation~~
- ~~4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer generated images of a sexual nature~~
- ~~5. Spreading sexual rumors~~
- ~~6. Teasing or sexual remarks about students enrolled in a predominantly single sex class~~
- ~~7. Massaging, grabbing, fondling, stroking or brushing the body~~
- ~~8. Touching an individual's body or clothes in a sexual way~~

~~SEXUAL HARASSMENT~~ (continued)

9. ~~Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex~~
10. ~~Displaying sexually suggestive objects~~
11. ~~Sexual assault, sexual battery, or sexual coercion~~

Notifications

~~A copy of the district's sexual harassment policy and regulation shall:~~

1. ~~Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)~~

~~(cf. 5145.6 Parental Notifications)~~

2. ~~Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures and standards of conduct are posted, including school websites (Education Code 231.5)~~
3. ~~Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session (Education Code 231.5)~~
4. ~~Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct (Education Code 231.5)~~
5. ~~Be provided to employees and employee organizations~~
6. ~~Be included in student handbooks~~

School-Level Complaint Process/Grievance Procedure

~~Complaints of sexual harassment, or any behavior prohibited by the district's Nondiscrimination/Harassment policy BP 5145.3, shall be handled in accordance with the following procedure:~~

1. ~~Notice and Receipt of Complaint: Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the~~

school employee shall report it to the Principal or district Coordinator for Nondiscrimination. In addition, any school employee who observes any incident

AR 5145.7(e)

SEXUAL HARASSMENT (continued)

of sexual harassment involving a student shall, within 24 hours, report this observation to the Principal/Coordinator, whether or not the victim files a complaint.

In any case of sexual harassment involving the Principal/Coordinator to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Superintendent or designee.

2. ~~Initiation of Investigation: The Principal/Coordinator shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The district shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.~~

If the Principal/Coordinator receives an anonymous complaint or media report about alleged sexual harassment, he/she shall determine whether it is reasonable to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

3. ~~Initial Interview with Student: When a student or parent/guardian has complained or provided information about sexual harassment, the Principal/Coordinator shall describe the district's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit the district's ability to investigate.~~

4. ~~Investigation Process: The Principal/Coordinator shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)~~

~~The Principal/Coordinator shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Principal/Coordinator may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.~~

~~When necessary to carry out his/her investigation or to protect student safety, the~~

Principal/Coordinator also may discuss the complaint with the Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged

AR 5145.7(d)

SEXUAL HARASSMENT (continued)

harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

5. ——— Interim Measures: The Principal/Coordinator shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.

6. ——— Optional Mediation: In cases of student on student harassment, when the student who complained and the alleged harasser so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.

7. ——— Factors in Reaching a Determination: In reaching a decision about the complaint, the principal or designee may take into account:

- 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

To judge the severity of the harassment, the principal or designee 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 engaged in the harassing conduct and at whom the harassment was directed
- d. ——— The identity, age and sex of the person accused of harassment and the student who complained, and the relationship between them
- e. ——— The size of the school, location of the incident(s), and context in which they occurred

SEXUAL HARASSMENT (continued)

f. ~~Other incidents at the school, involving different students~~

~~8. Written Report on Findings and Follow Up: No more than 30 days after receiving the complaint, the Principal/Coordinator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Principal/Coordinator shall notify the student who complained and explain the reasons for the extension.~~

~~The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If it is determined that harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Superintendent or designee.~~

~~In addition, the Principal/Coordinator shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Principal/Coordinator shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.~~

Enforcement of District Policy

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

- ~~1. Removing vulgar or offending graffiti.~~
- ~~2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond~~
- ~~3. Disseminating and/or summarizing the district's policy and regulation regarding sexual harassment~~
- ~~4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community~~
- ~~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 sexual harassment which he/she knew was not true.~~

Regulation
approved: December 8, 2008
revised: July 22, 2013
revised:

SAN RAFAEL CITY SCHOOL DISTRICT
San Rafael, California