

Students

SEXUAL HARASSMENT

The Board of Education is committed to maintaining a safe educational environment that is free from harassment and intimidation. The Board prohibits, at school or at school-sponsored or school-related activities, sexual harassment targeted at any student by anyone. The Board also prohibits retaliatory behavior or action against any individual who reports, complains, testifies, or otherwise participates in the complaint processes established for the purpose of this policy.

The Superintendent or designee shall take appropriate actions to reinforce the District's sexual harassment policy.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5145.3 - Nondiscrimination/Harassment/Intimidation/Bullying)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)
(cf. 5145.9 - Protecting Students From Hate-Motivated Behavior)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

Sexual Harassment under District Policy

For purposes of this policy and Board Policy/Administrative Regulation 1312.3 – Uniform Complaint Procedures, “sexual harassment” means any unwelcome sexual advance, unwelcome requests for sexual favors, or other unwelcome verbal, visual, or physical conduct of a sexual nature, whether it occurs between individuals of the same sex or individuals of opposite sex, under any of the following conditions (Ed. Code § 212.5 and 5 C.C.R. § 4916):

1. Submission to the conduct is explicitly or implicitly made a term or a condition of a student's academic status or progress;
2. Submission to, or rejection of, the conduct by the student is used as the basis of an academic decisions affecting the student;
3. The conduct has the purpose or effect of having a negative impact upon the student's academic performance or progress, or has the purpose or effect of creating an intimidating, hostile, or offensive educational environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive, so as to create a hostile or abusive educational environment or to limit the student's ability to participate in or benefit from an educational program or activity; and/or

SEXUAL HARASSMENT (continued)

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

Examples of conduct that might constitute sexual harassment include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about a student's body; overly familiar conversations; pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, or innuendoes; derogatory comments; sexually degrading descriptions; the spreading of sexual rumors;
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit e-mails; displaying sexually suggestive objects; and/or
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in an overly familiar or sexual way; cornering, blocking, leaning over, or impeding normal movements.

“Educational environment” includes, but is not limited to, the following: (1) campus or school grounds of the District; (2) properties controlled or owned by the District; and (3) off-campus, if such activity is sponsored by the District, or is conducted by organizations sponsored by or under the jurisdiction of the District.

Any act of retaliation against an individual who reports a violation of this policy or who participates in an investigation into alleged conduct prohibited by this policy, is prohibited.

Sexual Harassment under Title IX

For purposes of Administrative Regulation 5145.71 – Title IX Sexual Harassment Complaint Procedures, “sexual harassment” means conduct, on the basis of sex, that satisfies one or more of the following (34 C.F.R. § 106.30):

1. A District employee conditioning the provision of an aid, benefit, or service of the District on the student's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable individual to be so severe, pervasive, and objectively offensive that it effectively denies the student equal access to the District's education program or activity; and/or
3. “Sexual assault” as defined in United States Code, title 20, section 1092 (f)(6)(A)(v), “dating violence” as defined in United States Code, title 34, section 12291(a)(10), “domestic violence” as defined in United States Code, title 34, section 12291(a)(8), or “stalking” as defined in United States Code, title 34, section 12291(a)(30).

SEXUAL HARASSMENT (continued)

“Sexual assault” means actual or intentional physical sexual acts against an individual without consent that may include: rape, rape and seduction, sodomy, lewd and lascivious acts, oral copulation, sexual penetration, sexual battery, and sexual assault, as defined under Education Code section 48900(n) and Penal Code sections 261, 266c, 286, 288, 288a, 289 and 243.4.

“Dating violence” means violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim (34 U.S.C. § 12291(a)(10)).

“Domestic violence” means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by an individual with whom the victim shares a child in common, by an individual who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws (Ed. Code, § 48900 (n)).

“Stalking” means engaging in a course of conduct directed at a specific individual that would cause a reasonable individual to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress (34 U.S.C. § 12291(a)(30)).

"Without consent" or "against that individual's will" may include force, duress, violence, fear of immediate harm, or an individual's inability to consent.

Reporting Conduct

All District employees, unpaid interns, volunteers, persons providing services pursuant to a contract, students, parents, and other community members are encouraged to report incidents of sexual harassment, or related retaliation, to the Title IX Coordinators identified below, or their respective designees.

Title IX Coordinators

The District designates the positions/individuals identified below as responsible for coordinating its efforts to comply with Title IX of the Education Amendments of 1972, as well as to oversee, investigate, and/or resolve complaints alleging sexual harassment in accordance with Administrative Regulation 1312.3 – Uniform Complaint Procedures and Administrative Regulation 5145.71 – Title IX Sexual Harassment Complaint Procedures.

Bindy Grewal Assistant Superintendent, PreK-6 Education 9510 Elk Grove-Florin Road Elk Grove, CA 95624 T: (916) 686-7704 E: TitleIX@egusd.net	Craig Murray Assistant Superintendent, Secondary Education 9510 Elk Grove-Florin Road Elk Grove, CA 95624 T: (916) 686-7706 E: TitleIX@egusd.net
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SEXUAL HARASSMENT (continued)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Complaint Procedures

All complaints containing an allegation that a student was subject to conduct meeting the definition of sexual harassment set forth in the Title IX of the Education Amendments of 1972 (34 C.F.R. § 106.30), as defined above, or related retaliation, shall be addressed in accordance with Administrative Regulation 5145.71 – Title IX Sexual Harassment Complaint Procedures.

All complaints containing an allegation that a student was subject to conduct meeting the definition of sexual harassment under District Policy, as defined above, or related retaliation, shall be addressed in accordance with Administrative Regulation 1312.3 – Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Disciplinary Action

The District shall not impose any disciplinary sanction or other actions against an individual, other than supportive measures, until the appropriate complaint procedure has been completed and a determination of responsibility as been made.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Where an employee is found to have engaged in sexual harassment, or related retaliation, in violation of this policy, the District shall take appropriate disciplinary actions, up to and including dismissal, in accordance with applicable law and the applicable collective bargaining agreement.

(cf. 4117.7 - Employment Status Report)

(cf. 4118/4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11 - Sexual Harassment)

Where a student is found to have engaged in sexual harassment, or related retaliation, in violation of this policy, the District shall take appropriate disciplinary actions and/or other appropriate corrective measures or interventions. 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.

SEXUAL HARASSMENT (continued)

(cf. 5144 - Discipline)

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

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

Notifications

The Superintendent or designee shall ensure that all District students receive age-appropriate information regarding sexual harassment. Such information shall include:

1. What acts and behaviors 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. A clear message that, regardless of formal filing requirements, every sexual harassment allegation that involves a student, whether the student is the alleged victim or the respondent, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students;
6. Information about the District's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made;
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the District's investigation of a sexual harassment complaint continues; and
8. A clear message that, when needed, the District will take interim measures to ensure a safe school environment for students who report incidents of sexual harassment, are the alleged victims of sexual harassment, participate in an investigation into allegations of sexual harassment, and are accused of sexual harassment. The supportive measures will be non-disciplinary, non-punitive, and do not unreasonably burden the other party.

SEXUAL HARASSMENT (continued)

Preventative Measures

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Publicizing and disseminating the District's sexual harassment policy and regulations to students and others to whom the policy may apply.
2. Ensuring prompt, thorough, fair, and equitable investigation of complaints.
3. Providing supportive measures to both the alleged victim (complainant) and the individual alleged to have perpetrated the conduct (respondent), as appropriate, including but not limited to interim separation of the complainant and the respondent.
4. Taking timely and appropriate corrective action(s), including but not limited to subsequent monitoring of developments.

The Superintendent or designee shall periodically evaluate the effectiveness of the District's strategies to prevent and address sexual harassment. Such evaluation may involve conducting regular anonymous student surveys to assess whether sexual harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the District's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the sexual harassment policy, complaint procedures, or training.

Record-Keeping

In accordance with law, the Superintendent or designee shall maintain a record of all written complaints of harassment or discrimination, and related retaliation, to enable the District to monitor, address, and prevent repetitive behavior, in accordance with the District's applicable complaint procedure(s).

(cf. 3580 - District Records)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Additional Information

Additional information about this policy, your rights and responsibilities, or about how to file a complaint can be obtained by contacting the Legal Compliance Specialist, legalcompliance@egusd.net, 916-686-7795, Elk Grove Unified School District, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624, or one of the District's Title IX Coordinators.

SEXUAL HARASSMENT (continued)

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

4600-4671 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 34

12291 Definition of dating violence, domestic violence, and stalking

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-6 Title VI, Civil Rights Act of 1964

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.82 Nondiscrimination on the basis of sex in education programs

SEXUAL HARASSMENT (continued)

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
M.N. v. Morgan Hill Unified School District, (2018, 6th Cir.) 20 Cal. App. 5th 607

Management Resources:

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Title IX: Fact Sheet: Final Title IX Regulations
Title IX: U.S. Department of Education Title IX Final Rule Overview

Title IX: Summary of Major Provisions of the Department of Education's Title IX Final Rule

CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Boards of Education to Ensure Student Success, 2011

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
adopted: October 29, 1984
revised: June 21, 1993
revised: April 6, 1998
revised: July 10, 2002
revised: May 21, 2019
revised: December __, 2020

ELK GROVE UNIFIED SCHOOL DISTRICT
Elk Grove, California