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## **SEXUAL HARASSMENT - STUDENTS**

The Board of Education is committed to maintaining a learning environment free from harassment, intimidation or insult, student-to-student or adult-to-student, on the basis of an individual's *actual or perceived* sex, *sexual orientation, gender, gender identity or expression*. Positive action will be taken when necessary to eliminate such practices or remedy their effects. Sexual harassment, as defined and otherwise prohibited by state and federal statutes, constitutes an unlawful form of sex discrimination in violation of Title IX of the Education Amendments Act of 1972 and Title VII of the Civil Rights Act of 1964. In addition, sexual harassment constitutes violation of the California Education Code, regulations of the State Board of Education, and District Policy. As such, sexual harassment may constitute just cause for discipline pursuant to applicable Education Code Sections.

### **Definition**

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. It includes, but is not limited to, circumstances in which:

1. submission to such conduct is made either explicitly or implicitly a part of the academic environment;
2. submission to or rejection of such conduct by a student is used as the basis for grading, evaluation, or supervision decisions affecting a student; or
3. such conduct has the purpose or effect of unreasonable interference with a student's academic performance or creates an intimidating, hostile or offensive learning environment.

### **Forms of Sexual Harassment**

Forms of sexual harassment include, but are not limited to, the following:

1. verbal harassment: derogatory comments, jokes, or slurs;
2. physical harassment: unnecessary or offensive touching or impeding or blocking movement;
3. visual harassment: derogatory or offensive posters, cards, cartoons, graffiti, drawings or gestures; and
4. sexual favors: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Activities such as:

- comments repeatedly emphasizing the sexuality identity of an individual;
- persistent requests for social-sexual encounters and favors;
- physical contact of a lewd type;
- indecent exposure;
- realized sexual encounters

constitute sexual harassment when they are accompanied by one or more of the following terms or conditions:

1. explicit or implicit promises of rewards for cooperation via misuse of institutional authority -- e.g., to affect a student's academic advancement, grades, graduation, etc.
2. explicit or implicit threats of punishment for non-cooperation via misuse of institutional authority -- e.g., to effect a student's academic advancement, grades, graduation, etc.
3. intimidation which creates a hostile or offensive academic environment; interferes with a student's scholastic performance; prevents a student's full enjoyment of education opportunities; or induces conformance, stress, anxiety, fear, or sickness on the part of the harassed student.

Implicit in the legal definition of sexual harassment is the assumption that sexual harassment prevents the realization of the victim's full potential as a student. A person sexually harassing a student is thus robbing the victim of the freedom to learn. Sexual harassment, then, is considered unethical and unsatisfactory, as well as illegal behavior.

### **Resolution Process**

#### **I. Informal Process:**

To accommodate the unique nature of sexual harassment complaints, an informal process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this process are:

1. The principal, an assistant principal, or a counselor may receive sexual harassment complaints from students and/or parents/guardians. The individual receiving the complaint will:
  - a. counsel the student, outline the options available and, when parents/guardians have not been involved, inform them of the complaint and the procedures to be followed;
  - b. obtain a factual written statement of the complaint and forward such to the Superintendent;
  - c. assist in the follow-up investigation, as appropriate;
  - d. make recommendations regarding the disposition of the complaint to the Superintendent or designee.
2. The Superintendent or designee will review the factual information collected to determine whether the alleged conduct constitutes sexual harassment, giving consideration to the record as a whole and the totality of

circumstances, and will take and/or authorize appropriate action in accordance with student disciplinary procedures or due process requirements.

3. An effort will be made to protect the privacy of the parties involved in a complaint. Files which pertain to complaints handled under the informal process shall be kept confidential and will not be made available to the public.

## **II. Formal Process:**

If the complaint is not resolved to the satisfaction of the student or his/her parents in the informal process, the following formal procedure is available:

1. The complaint shall be reduced to writing by the complainant and sent to the Superintendent within 10 working days of the completion of the informal process.
2. The Superintendent shall investigate the complaint and respond within 10 working days after receipt of the complaint.

### Legal References:

Education Code Sections 200, 212.5, 230

Title VII of the Civil Rights Act of 1964

Title IX of the Education Amendments Acts of 1972

Meritor Savings Bank v. Vinson, 477 U.S. 57, (1966)

Franklin v. Gwinnett County Schools, 112 S.Ct 1028 (1992)

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