

SEXUAL HARASSMENT

The County Board of Education is committed to maintaining a safe school environment that is free from harassment and discrimination. Sexual harassment targeted at any student in a county office of education (COE) educational program, school, or school-sponsored or school-related activity is prohibited. The County Board also 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 County Board strongly encourages students who feel that they are being or have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who have experienced an off-campus sexual harassment incident that involved anyone with whom they may continue to have contact on campus, to immediately contact their teacher, the principal or program administrator, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the County Superintendent of Schools or the COE's designated compliance officer so that steps may be taken to investigate and address the allegation in accordance with law and related County Superintendent regulation.

(cf. 0410 - Nondiscrimination in County Office Programs and Activities)

(cf. 5145.3 - Nondiscrimination/Harassment)

Instruction/Information

All COE students shall 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 when the alleged victim of the harassment has not complained
4. A clear message that student safety is the COE'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 a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment,

shall be investigated and action shall be taken to respond to the harassment, prevent recurrence, and address any continuing effect on students

6. Information about the COE's procedures 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 COE investigation of a sexual harassment complaint continues
8. A clear message that, when needed, the COE will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation

Complaint Process and Disciplinary Actions

Sexual harassment complaints by and against students shall be investigated and resolved in accordance with law and COE uniform complaint procedures. 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)

(cf. 1312.3 - Uniform Complaint Procedures)

Upon investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this County Board policy shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion.

Notifications

A copy of the COE'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)
2. Be displayed in a prominent location in the main administrative building or other area where notices of COE rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
3. Be posted on COE and program/school web sites and, when available, on COE-supported social media
4. 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)
5. Appear in any publication that sets forth the program/school's or COE's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

6. Be provided to the County Superintendent for distribution to employees and employee organizations

Record-Keeping

Records shall be maintained in accordance with law, including in accordance with Exhibit (1) 5145.71 - Title IX Sexual Harassment Complaint Procedures, and COE policies and regulations, of all reported cases of sexual harassment to enable the COE to monitor, address, and prevent harassing behavior in COE schools.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex
1040 Duties and responsibilities; county boards of education
1042 County boards; authority
35160 Authority of county boards
35160.1 Authority of county boards; legislative intent
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
48915 Grounds for expulsion
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

4600-4670 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
106.8 Designation of responsible employee for Title IX

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