

Policy 5145.7: Sex Discrimination and Sex-Based Harassment

Status: DRAFT

Original Adopted Date: 01/13/2009 | Last Revised Date: 10/20/2020 | Last Reviewed Date: 10/20/2020

The Governing Board is committed to maintaining a **welcoming, safe, and supportive** school environment that is free from harassment and discrimination. ~~and harassment.~~ The Board prohibits, at school or at school-sponsored or school-related activities, ~~sexual~~ **sex discrimination and sex-based harassment, as defined in the accompanying administrative regulation**, targeted at any student by anyone. ~~The,~~ **based on the student's actual or perceived sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and, parental, marital, and family status.**

~~Additionally, the~~ Board also prohibits retaliatory behavior or action against any person who reports, files a complaint ~~complains or testifies about~~ **conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct,** or otherwise supports a complainant in alleging sexual harassment. ~~participates or refuses to participate in the complaint process established for the purpose of this policy.~~ (Education Code 220.1; 34 CFR 106.71)

The district strongly encourages students who feel that they are being or have been sexually harassed ~~experienced~~ **sex discrimination, including sex-based harassment,** on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who have experienced, ~~or~~ **off-campus sexual harassment that** ~~when the~~ **conduct** has a continuing effect on campus, to immediately contact their teacher, the principal, the district's Title IX Coordinator, or any other available school employee.

Any employee who receives a report or observes an incident of sexual ~~sex~~ **sex discrimination, including sex-based harassment, by or against a student in a district education program or activity** shall ~~notify~~ **report the incident to** the Title IX Coordinator ~~within one workday.~~

Once notified, the Title IX Coordinator shall ensure the complaint ~~or allegation~~ is addressed through **Administrative Regulation 5145.71** - Title IX complaint procedures or uniform complaint procedures, as applicable, ~~Sex Discrimination and Sex-Based Harassment Complaint Procedures.~~

~~The Title IX Coordinator shall offer and coordinate~~ supportive measures to ~~be provided to~~ the complainant ~~and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.~~

The Superintendent or designee shall inform students and parents/guardians of the district's sexual harassment policy by disseminating it through parent/guardian notifications, publishing it on the district's web site, and including it in student and ~~ensure that all district~~ staff handbooks. All district staff shall be ~~are~~ trained regarding the ~~policy.~~ **district's sex discrimination and sex-based harassment policy, and that all employees receive training related to their duties under Title IX as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment. (34 CFR 106.8)**

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sexual ~~sex~~ **sex discrimination and sex-based** harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual ~~sex~~ **sex discrimination and sex-based** harassment, including the fact that sexual ~~sex~~ **sex discrimination and sex-based** 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 ~~sex~~ **sex discrimination or sex-based** harassment under any circumstance
3. Encouragement to report observed incidents of sexual ~~sex~~ **sex discrimination and sex-based** harassment even when the alleged victim of the ~~discrimination or~~ 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~~**sex discrimination or sex-based** harassment incident will be addressed separately and will not affect the manner in which the ~~sexual~~**sex discrimination or sex-based** 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~~**sex discrimination and sex-based** harassment allegation that involves a student, whether as the complainant, respondent, or victim of the ~~discrimination or~~ harassment, shall be investigated and action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students
6. Information about the district's procedures for investigating complaints and the person(s) to whom a report of ~~sexual~~**sex discrimination and/or sex-based** 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 investigation of a ~~sexual~~**sex discrimination or sex-based** harassment complaint continues
8. A clear message that, when needed, the district will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of ~~sexual~~**sex discrimination or sex-based** harassment and/or other students during an investigation

Disciplinary Actions

Upon completion of an investigation of a ~~sexual~~**sex discrimination and/or sex-based** harassment complaint, any student found to have engaged in ~~sexual~~**sex discrimination, and/or sex-based** harassment or sexual violence, in violation of this policy, 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.

Upon investigation of a ~~sexual~~**sex discrimination and/or sex-based** harassment complaint, any employee found to have engaged in ~~sexual~~**sex discrimination against, and/or sex-based** harassment or sexual violence toward, any student, shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

Record-Keeping

~~In accordance with law, the~~**The Superintendent or designee shall maintain a record**~~records in accordance with law, including in accordance with 34 CFR 106.8 as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and district policies and regulations,~~ of all reported cases of ~~sexual~~**sex-based** harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in district schools.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

5 CCR 432

Description

Student records

5 CCR 4600-4670

Uniform complaint procedures

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Civ. Code 1714.1

[Liability of parent or guardian for act of willful misconduct by a minor](#)

Civ. Code 51.9

[Liability for sexual harassment; business, service and professional relationships](#)

Ed. Code 200-270

[Prohibition of discrimination](#)

State References

Ed. Code 220.1
Ed. Code 220.3
Ed. Code 220.5
Ed. Code 35292.5
Ed. Code 48900
Ed. Code 48900.2
Ed. Code 48904
Ed. Code 48980
Ed. Code 48985
Ed. Code 49060-49079
Gov. Code 12950.1

Description

Prohibition of retaliation related to educational equity
Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
School restrooms; all-gender restrooms
[Grounds for suspension or expulsion](#)
[Additional grounds for suspension or expulsion; sexual harassment](#)
[Liability of parent/guardian for willful student misconduct](#)
[Parent/Guardian notifications](#)
[Notices to parents in language other than English](#)
[Student records](#)
[Sexual harassment training](#)

Federal References

20 USC 1092
20 USC 1221
20 USC 1232g
20 USC 1681-1688
34 CFR 106.1-106.82
34 CFR 99.1-99.67
34 USC 12291
42 USC 1983
42 USC 2000d-2000d-7
42 USC 2000e-2000e-17

Description

Definition of sexual assault
Application of laws
Family Educational Rights and Privacy Act (FERPA) of 1974
Title IX of the Education Amendments of 1972; discrimination based on sex
Nondiscrimination on the basis of sex in education programs
Family Educational Rights and Privacy
Definition of dating violence, domestic violence, and stalking
Civil action for deprivation of rights
Title VI, Civil Rights Act of 1964
Title VII, Civil Rights Act of 1964, as amended

Management Resources References

California Department of Education Publication
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
CSBA Publication
CSBA Publication
CSBA Publication

Description

California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
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
Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Davis v. Monroe County Board of Education (1999) 526 U.S. 629
Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447
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
[Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011](#)
[Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014](#)
[Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022](#)

Management Resources References

	Description
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
U.S. DOE, Office for Civil Rights Publication	Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.1-E PDF(1)	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E PDF(1)	Uniform Complaint Procedures
1312.3-E PDF(2)	Uniform Complaint Procedures
1313	Civility
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sex Discrimination and Sex-Based Harassment
4119.11	Sex Discrimination and Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4131	Staff Development

Cross References**Description**

4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	Sex Discrimination and Sex-Based Harassment
4219.11	Sex Discrimination and Sex-Based Harassment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E PDF(1)	Professional Standards - Code Of Ethics Classified Employees
4319.11	Sex Discrimination and Sex-Based Harassment
4319.11	Sex Discrimination and Sex-Based Harassment
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E PDF(1)	Professional Standards
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti
5132	Dress And Grooming
5132	Dress And Grooming
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications

Cross References

5145.71

5145.9

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6142.1

6142.1

6142.8

6142.8

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6163.4-E PDF(1)

Description[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Hate-Motivated Behavior](#)[Married/Pregnant/Parenting Students](#)[Sexual Health And HIV/AIDS Prevention Instruction](#)[Sexual Health And HIV/AIDS Prevention Instruction](#)[Comprehensive Health Education](#)[Comprehensive Health Education](#)[Extracurricular And Cocurricular Activities](#)[Extracurricular And Cocurricular Activities](#)[Athletic Competition](#)[Athletic Competition](#)[Student Use Of Technology](#)[Student Use Of Technology](#)