

SAN LUIS OBISPO COUNTY BOARD OF EDUCATION

Board Policy **Sexual Harassment**

BP 5145.7
Students

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)

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 included in the student handbook
7. Be provided to the County Superintendent for distribution to employees and employee organizations

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

Management Resources:

CSBA PUBLICATIONS

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

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

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Q&A on Campus Sexual Misconduct, September 2017

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

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>