

County Policy Manual

San Luis Obispo County Office of Education

Superintendent Policy 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 08/18/2021 | Last Reviewed Date: 08/18/2021

The county office of education (COE) is committed to maintaining a safe school environment that is free from harassment and discrimination. Sexual harassment targeting school-sponsored or school-related activity is prohibited. Retaliatory behavior or action against any person who reports, files a complaint, or testifies about sexual harassment is also prohibited.

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 that has a continuing effect on campus, are strongly encouraged to immediately contact their teacher, the principal or program administrator, the COE's Title IX Coordinator, or the law enforcement.

Any employee who receives a report or observes an incident of sexual harassment shall notify the Title IX Coordinator so that steps may be taken to investigate and enforce the regulations.

Once notified of a complaint or allegation of sexual harassment, the Title IX Coordinator shall ensure that it is addressed through the COE's Title IX complaint procedure. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX procedure concurrently meets the requirements of UCP.

The Title IX Coordinator shall offer supportive measures to the complainant and respondent, as deemed appropriate under the circumstances.

Upon completion of an investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy, grades 4-12, disciplinary action may include suspension and/or expulsion pursuant to Education Code 48900.2, provided that, in imposing such discipline, the entire process is fair and equitable.

Federal References

1040
1042
20 USC 1092
20 USC 1221
20 USC 1232g
20 USC 1681-1688
34 CFR 106.1-106.71
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
48915

Description

Duties and responsibilities; county boards of education
County boards; authority
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
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
Grounds for expulsion

Management Resources References

Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
CSBA Publication
CSBA Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
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Website
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Description

Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
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
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
Q&A on Campus Sexual Misconduct, September 2017
Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
U.S. Department of Education, Office for Civil Rights - <https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==>
CSBA - <https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==>
California Department of Education - <https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==>

State References

2000e-2000e-17
5 CCR 4600-4670
5 CCR 4900-4965
Civ. Code 1714.1

Description

Title VII, Civil Rights Act of 1964 as amended
Uniform complaint procedures
Nondiscrimination in elementary and secondary education programs
Liability of parent or guardian for act of willful misconduct by a minor - <https://simbli.eboardsolutions.com/SU/NSknepFduiYWusJFnU3r2Q==>

Civ. Code 51.9	Liability for sexual harassment; business, service and professional relationships - https://simbli.eboardsolutions.com/SU/RFwiKgYI364luH8a6QAqdg==
Ed. Code 200-262.4	Educational equity; prohibition of discrimination on the basis of sex - https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAbNL6kKkgxQ==
Ed. Code 35160	Authority of governing boards
Ed. Code 48900	Grounds for suspension or expulsion; definition of bullying
Ed. Code 48900	Grounds for suspension and expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48980	Parent/Guardian notifications
Gov. Code 12950.1	Sexual harassment training
Cross References	
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/GZrZFHRAAdZ4plus6WKi9A6Qjg==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/1wYY1ypkZ0nMx63izplusXsSw==
5131.2	Bullying - https://simbli.eboardsolutions.com/SU/3UbJDPRlchd82qEaCBDplusYA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/7vn7frhKovc1IREbyMBEbA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/ZhKqL9kUt037RVVTslshJGi9w==
5145.71	Title IX Sexual Harassment Complaint Procedures - https://simbli.eboardsolutions.com/SU/LCwl4t4eplus56QJzqtj9h3A==
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures - https://simbli.eboardsolutions.com/SU/slshnlXlzu0f4PYe7u9lNFBng==

County Office Regulation 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 08/04/2022 | **Last Reviewed Date:** 08/04/2022

Definitions

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any COE program or activity.

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of COE policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a COE school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A COE employee conditioning the provision of a COE aid, benefit, or service on the student's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the COE's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

Examples of Sexual Harassment

Examples of types of conduct which are prohibited in the COE and which may constitute sexual harassment under state and/or federal law, in accordance with the definitions above, include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way

9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Title IX Coordinator/Compliance Officer

The COE designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures, as well as to oversee investigate, and/or resolve sexual harassment complaints processed under AR 1312.3 - Uniform Complaint Procedures. The Title IX Coordinator(s) may be contacted at:

Assistant County Superintendent of Schools of Student Programs & Services
San Luis Obispo County Office of Education
3350 Education Drive, San Luis Obispo, CA 93405
805-543-7732

Notifications

The County Superintendent of Schools or designee shall notify students and parents/guardians that the COE does not discriminate on the basis of sex as required by Title IX and that inquiries about the application of Title IX to the COE may be referred to the COE's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

The COE shall notify students and parents/guardians of the name or title, office address, email address, and telephone number of the COE's Title IX Coordinator. (34 CFR 106.8)

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 summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)
4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the COE's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6; 34 CFR 106.8)
5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
6. Appear in any school or COE publication that sets forth the school's or COE's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
7. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to students or parents/guardians (34 CFR 106.8)

The County Superintendent of Schools or designee shall also post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location

on the COE's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

Reporting Complaints

A student or parent/guardian who believes that the student has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to a teacher, the principal, the COE's Title IX Coordinator, or any other available school employee. Within one school day of receiving such a report, the principal or other school employee shall forward the report to the COE's Title IX Coordinator. Any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report the observation to the principal or Title IX Coordinator. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.

When a report or complaint of sexual harassment involves off-campus conduct, the Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX Coordinator determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

When a verbal or informal report of sexual harassment is submitted, the Title IX Coordinator shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with applicable COE complaint procedures.

Complaint Procedures

All complaints and allegations of sexual harassment by and against students shall be investigated and resolved in accordance with law and COE procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to BP/AR 1312.3 - Uniform Complaint Procedures.

If sexual harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, implement remedies, and address any continuing effects.

Federal References

	Description
1040	Duties and responsibilities; county boards of education
1042	County boards; authority
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.71	Nondiscrimination on the basis of sex in education programs
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
48915	Grounds for expulsion

Management Resources References

	Description
Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736

Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
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	Q&A on Campus Sexual Misconduct, September 2017
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
Website	U.S. Department of Education, Office for Civil Rights - https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	California Department of Education - https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==

State References

2000e-2000e-17
5 CCR 4600-4670
5 CCR 4900-4965
Civ. Code 1714.1

Civ. Code 51.9

Ed. Code 200-262.4

Ed. Code 35160
Ed. Code 48900
Ed. Code 48900
Ed. Code 48900.2
Ed. Code 48904
Ed. Code 48980
Gov. Code 12950.1

Description

Title VII, Civil Rights Act of 1964 as amended
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Liability of parent or guardian for act of willful misconduct by a minor - <https://simbli.eboardsolutions.com/SU/NSknepeFduiYWusJFnU3r9Q==>
Liability for sexual harassment; business, service and professional relationships - <https://simbli.eboardsolutions.com/SU/RFwiKgYI364luH8a6QAqdg==>
Educational equity; prohibition of discrimination on the basis of sex - <https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAbNL6kKkgxQ==>
Authority of governing boards
Grounds for suspension or expulsion; definition of bullying
Grounds for suspension and expulsion
Additional grounds for suspension or expulsion; sexual harassment
Liability of parent/guardian for willful student misconduct
Parent/Guardian notifications
Sexual harassment training

Cross References

1312.3

1312.3

Description

Uniform Complaint Procedures - <https://simbli.eboardsolutions.com/SU/GZrZFHRAdZ4plus6WKi9A6Qjg==>
Uniform Complaint Procedures - <https://simbli.eboardsolutions.com/SU/1wYY1ypkZ0nMx63izplusXsSw==>

5131.2	Bullying - https://simbli.eboardsolutions.com/SU/3UbJDPRlchd82qEaCBDplusYA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/7vn7frhKovc1lRebyMBEbA==
5145.3	Nondiscrimination/Harassment - https://simbli.eboardsolutions.com/SU/ZhKqL9kUt037RVVTslshJGi9w==
5145.71	Title IX Sexual Harassment Complaint Procedures - https://simbli.eboardsolutions.com/SU/LCwll4t4eplus56OJzqtj9h3A==
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures - https://simbli.eboardsolutions.com/SU/slshnIXlzu0f4PYe7u9lNFBng==