

LODI UNIFIED SCHOOL DISTRICT

REVISED Policy 5145.7

Students

Sexual Harassment

Sex Discrimination and Sex-Based Harassment

The Board of Education is committed to maintaining a *welcoming, safe, and supportive* school environment that is free from harassment and discrimination. The Board prohibits at school or at school-sponsored or school-related activities, *sex discrimination and sex-based harassment, as defined in the accompanying Administrative Regulation*, ~~sexual harassment~~ targeted at any student *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.* ~~by anyone.~~ The 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.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy.

The District strongly encourages students who feel that they are being or have experienced *sex discrimination, including sex-based harassment, on school grounds or at a school-sponsored or school-related activity, or off-campus 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.* ~~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 off-campus sexual harassment that 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 harassment shall notify the Title IX Coordinator.

Any employee who receives a report or observes an incident of sex discrimination, including sex-based harassment, by or against a student in a district education program or activity shall 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 ~~Title IX complaint procedures or uniform complaint~~

~~procedures, as applicable, and shall offer supportive measures to the complainant~~ *Administrative Regulation 5145.71 - Title IX Sexual 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 information resolution process to the respondent, offer and coordinate supportive measure to be provided to the respondent as deemed appropriate under the circumstances.

The Superintendent or designee shall ensure that all district staff are trained regarding the 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.

~~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 staff handbooks. All District staff shall be trained regarding the policy.~~

Instruction/Information

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

1. What acts and behavior constitute *sex discrimination and sex-based* harassment, including the fact that *sex discrimination and sex-based* ~~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 *sex discrimination and sex-based* ~~sexual~~ harassment under any circumstance.
3. Encouragement to report observed instances of ~~sexual harassment~~ *sex discrimination and sex-based harassment*, even where 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 *sex discrimination or sex-based* ~~sexual~~ harassment incident will be addressed separately and will not affect the manner in which the *sex discrimination or sex-based* ~~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 prompt action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students.~~ *A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sex discrimination and sex-based harassment allegation that involves a student, whether as a 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 procedure for investigating complaints and the person(s) to whom a report of *sex discrimination or sex-based* ~~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 District investigation of a *sex discrimination or sex-based* ~~sexual~~ 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 *sex discrimination or sex-based* ~~sexual~~ harassment and/or other students during an investigation.

Disciplinary Actions

Upon completion of an investigation of a *sex discrimination or sex-based* ~~sexual~~ harassment complaint, any student found to have engaged in *sex discrimination and/or sex-based* ~~sexual~~ 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 *sex discrimination and/or sex-based* ~~sexual~~ harassment complaint, any employee found to have engaged in *sex discrimination and/or sex-based* ~~sexual~~ 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 Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the District to monitor, address, and prevent repetitive harassing behavior in District schools.~~ *The Superintendent or designee shall maintain 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 sex-based harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in district schools.*

Legal References:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

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

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- ~~4687~~ 4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary
education programs

UNITED STATES CODE, TITLE 20

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX, discrimination

UNITED STATES CODE, TITLE 42

**106.1 – 106.82 Nondiscrimination on the basis of sex in education
programs**

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
106.71 Nondiscrimination on the basis of sex in
education programs

**12291 Definition of dating violence, domestic
violence, and stalking**

COURT DECISIONS

Donovan v. Poway Unified School District, (2008)
167Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003,
9thCir.) 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.

629Gebser 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.3d1447

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

~~Providing a Safe, Nondiscriminatory School Environment
for All Students, Policy Brief, April 2010~~

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

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

~~Dear Colleague Letter: Title IX Coordinators, April
2015Questions and Answer on Title IX and Sexual
Violence, April 4, 2011~~

Q&A on Campus Sexual Misconduct, September 2017

Dear Colleague Letter: Sexual Violence, April 4, 2011

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** 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>

<https://www2.ed.gov/about/offices/list/ocr>

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