

LODI UNIFIED SCHOOL DISTRICT

REVISED Policy
5145.7

Students

Sexual Harassment

The Board of Education is committed to maintaining ~~an educational~~ *a safe school* environment that is free from harassment and discrimination. The Board prohibits, at school or at school-sponsored or school-related activities, sexual harassment targeted at any student by anyone. The Board also prohibits retaliatory behavior or action against any ~~persons~~ *person* who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

~~The district strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult who has experienced off-campus sexual harassment that has a continuing effect on campus to immediately contact his/her teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district compliance officer. Once notified, the principal or compliance officer shall take steps to investigate and address the allegation, as specified in the accompanying administrative rule.~~ *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 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.*

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through Title IX complaint procedures or uniform complaint procedures, as applicable, and shall offer supportive measures to the complainant.

~~The superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy.~~ *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 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 instances of sexual harassment, even where the victim of the 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 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 prompt action shall be taken to ~~stop~~ *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 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 sexual harassment complaint continues
8. A clear message that, when needed, the district will ~~take interim~~ *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 ~~and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment~~

Complaint Process and Disciplinary Actions

~~Sexual harassment complaints by and against students shall be investigated and resolved in accordance with laws and district procedures specified in Board Rule 1312.3 – Uniform Complaint Procedures. Principals are responsible for notifying students and parent/guardians that complaints of sexual harassment can be filed under Board Rule 1312.3 and where to obtain a copy of the procedures.~~

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 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 harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall ~~have his/her employment terminated in accordance with law and the applicable collective bargaining agreement.~~ *be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.*

~~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 the schools.~~

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.

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 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

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.3d1447

MANAGEMENT RESOURCES:

CSBA PUBLICATIONS

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 2015

Questions and Answer on Title IX and Sexual Violence, April 4,
2011

Dear Colleague Letter: Sexual Violence, April 4, 2011

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance, 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>

Policy

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