

Tahoe Truckee USD

Board Policy

Sexual Harassment

BP 5145.7

Students

The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. ~~The Board prohibits sexual harassment of students, 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 person who reports, files a complaint, or testifies about, or otherwise ~~participates~~ supports a complainant in district-complaint processes alleging sexual harassment.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

~~(cf. 1312.3 - Uniform Complaint Procedures)~~

~~(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)~~

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

~~(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)~~

The district strongly encourages ~~any student~~ students who ~~feels~~ feel that ~~he/she is~~ they are being or ~~has~~ 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 ~~his/her~~ 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 principal or a district compliance officer~~ Title IX Coordinator.

~~(cf. 0410 - Nondiscrimination in District Programs and Activities)~~

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed

through AR 5145.71 - Title IX Sexual Harassment Complaint Procedures or BP/AR 1312.3 - Uniform Complaint Procedures, as applicable. 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 Coordinator shall ensure that any implementation of AR 5145.71 concurrently meets the requirements of BP/AR 1312.3.

(cf. 1312.1 - Complaints Concerning District Employees)

(~~cf. 5131 - Conduct~~)

(~~cf. 5131.2 - Bullying~~)

(~~cf. 5137 - Positive School Climate~~)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(~~cf. 5145.3 - Nondiscrimination/71 - Title IX Sexual Harassment~~)

(~~cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction~~)

~~Complaints regarding sexual harassment shall be investigated and resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.)~~

~~(cf. 1312.3 - Uniform Complaint Procedures)~~

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

~~The Superintendent Chief Learning Officer or designee shall take appropriate actions to reinforce~~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 Chief Learning Officer 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~~incidents of sexual harassment, even ~~where~~when the alleged 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 action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students

6. Information about the district's ~~procedure~~procedures for investigating complaints and the person(s) to whom a report of sexual harassment should be made

67. 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 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

Disciplinary Actions

Any

Upon completion of an investigation of a sexual harassment complaint, any student who engages found to have engaged in sexual harassment or sexual violence at school or at a school-sponsored or school-related activity is in violation of this policy and 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.

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

~~Any staff member~~ Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall be subject to ~~disciplined~~ disciplinary action, up to and including dismissal, in accordance with law and the applicable policies, laws, and/or collective bargaining agreements ~~agreement~~.

(cf. 4117.4 - Dismissal)

~~(cf. 4117.7/4317.7 - Employment Status Report)~~

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

~~(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)~~

The Record-Keeping

In accordance with law and district policies and regulations, the Superintendent Chief Learning Officer 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~~ district schools.

(cf. 3580 - District Records)

Legal Reference:

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

48985 Notices, report, statements and records in primary language

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~~ of the Education Amendments of 1972

UNITED STATES CODE, TITLE 34

12291 Definition of dating violence, domestic violence, and stalking

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

106.1-106.7482 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, (20042000, 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

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

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

~~Questions and Answers Q&A on Title IX and Campus Sexual Violence, April 2014~~ Misconduct, September 2017

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

Dear Colleague Letter: ~~Sexual Violence~~ Title IX Coordinators, April 4, 2014 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>

Policy TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT

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