

Buena Park School District
Board Policy

BP5145.7

Students

Sexual Harassment

1. Purpose

The Buena Park School District is committed to an educational environment in which all students are treated with respect and dignity. Each student has the right to learn in an environment that promotes equal educational opportunity, and is free from discriminatory practices. The Governing Board prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

Sexual harassment is a violation of Title IX of the Education Act Amendments of 1972, Title VII of the Civil Rights Act of 1964, and California Education Code Sections 210 through 214, inclusive, and Section 230.

Therefore, the District strongly condemns, opposes, and prohibits sexual harassment of students including bullying based on gender, gender identity and gender expression, whether verbal, physical, or environmental, by anyone in or from the District, or any third party, on school property, during school hours, or during any District-sponsored activity. The District will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Any employee who engages in sexual harassment of a student may be disciplined, up to and including termination. Any student who engages in sexual harassment of anyone in or from the District may be subject to discipline, up to and including expulsion.

The "informal resolution process" will be used in mediating problems in grades K, 1, 2, and 3. The "formal resolution process" will be used in grade levels 4 through 8.

The Superintendent shall establish complaint procedures which allows the complainant to appeal to the Governing Board should they disagree with the resolution of the complaint.

2. Definition

As used in this policy and regulation "sexual harassment," hereinafter referred to as "conduct," means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical contact of a sexual nature, made by anyone in or from the District.

Examples of Sexual Harassment:

- a. Unwanted sexual advances.
- b. Offering educational benefits in exchange for sexual favors.

- c. Making or threatening reprisals after negative response to sexual advances.
- d. Visual conduct, such as leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, or posters.
- e. Verbal conduct, such as making or using derogatory comments, epithets, slurs, and jokes of sexual nature.
- f. Verbal sexual advances or propositions.
- g. Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations.
- h. Unwanted physical contact, such as touching, assault, impeding or blocking movements.
- i. Retaliating against an individual after the individual makes a sexual harassment complaint.
- j. Sexual assault, sexual battery or sexual coercion

3. Dissemination of Policy

This policy and related regulation shall be disseminated as follows:

- a. This policy and related regulations shall be provided to students as part of any orientation program for new students.
- b. This policy and related regulations shall be included in the notifications that are sent to parents/guardians at the beginning of each school year.
- c. This policy and related regulations shall be posted in a prominent location near each school principal's office.
- d. This policy and related regulations shall appear in any school or District publication that sets forth the school's or District's comprehensive rules, regulations, procedures and standards of conduct.

All District employees shall be knowledgeable of the District's policy and their responsibilities for its implementation.

4. Reporting Sexual Harassment

- a. Students shall state their objections to the person whom they deem is making inappropriate verbal, physical, or environmental harassment.
- b. Students shall immediately report suspected "sexual harassment" to the principal or assistant principal at their school site.

c. Students who knowingly make a false allegation are subject to discipline, up to and including suspension or expulsion.

The Superintendent 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 gender
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the district's procedure for investigating complaints and person(s) to whom a report of sexual harassment should be made
5. Information about the rights of students and parents/guardians to file a criminal complaint, as applicable

(cf. 5131.5 - Vandalism, Theft and Graffiti)

(cf. 5137 - Positive School Climate)

(cf. 5141.41 - Child Abuse Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Family Life/Sex Education)

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint. Districts shall respond to sexual harassment that comes to their attention even when a victim requests anonymity.

In any case of sexual harassment involving the principal or any other district employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the nondiscrimination coordinator or the Superintendent.

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

(cf. 5141.4 - Child Abuse Reporting Procedures)

(cf. 5145.3 - Nondiscrimination/Harassment)

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the principal or designee finds that sexual harassment occurred, he/she shall take

prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall file a report with the Superintendent and refer the matter to law enforcement authorities, where required.

(cf. 1312.1 - Complaints Concerning District Employees)

Disciplinary Measures

Any student who engages in sexual harassment of anyone 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 through 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. 5131 - Conduct)

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

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

Record-Keeping

The Superintendent shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in its schools.

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. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student 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

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

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

106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Donovan v. Poway Unified School District, (1008) 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) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

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:

OFFICE OF CIVIL RIGHTS PUBLICATIONS

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance, January 2001

WEB SITES

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/index.html>

Policy

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BUENA PARK SCHOOL DISTRICT

Buena Park, California