

Students

SEXUAL HARASSMENT

The Chula Vista Elementary School District recognizes that harassment on the basis of sex is a violation of both federal and state anti-discrimination laws. The District expects that all students will have a learning environment free from sexual harassment or the threat of sexual harassment. Sexual harassment will not be tolerated toward students by students or by adults at school or during school-related, or school-sponsored activities.

Teachers shall inform students in age-appropriate ways of what sexual harassment is, that they do not have to endure it, and that it will not be tolerated. Teachers shall also inform students of the District's procedure for investigating complaints.

If any student perceives comments, gestures, or actions from any other student or adult during school-related or school-sponsored activities to be sexual harassment, the student may, but is not required to, inform directly the person engaging in such conduct that such conduct is offensive and must stop. If this approach is not taken and/or is not successful, the student should notify the classroom teacher and/or the school principal or any other available school employee. School staff who are aware, or who become aware, of sexual harassment or any allegations of sexual harassment shall inform the principal or a District Compliance Officer. The principal or a District Compliance Officer shall take immediate steps to investigate any complaints of sexual harassment in a manner that respects the privacy of all parties concerned to the extent practicable.

In any case of sexual harassment involving the principal to whom the complaint would ordinarily be made, the employee who receives the student's report or observes the incident shall instead report to the Superintendent or his/her designee.

No student, staff member, parent, or other individual will suffer reprisals for reporting incidents of sexual harassment or making complaints.

The Superintendent/designee shall take appropriate actions to reinforce the District's sexual harassment policy.

Instruction/Information

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

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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 incidents of sexual harassment even where 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 prompt action shall be taken to stop any 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 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

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resolved in accordance with law and District procedures specified in Administrative Regulation (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)

Upon 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.

Any student in Grades 4-12 found responsible for sexual harassment of anyone in or from the District will be subject to appropriate discipline as contained in the school's discipline policy. The severity of the disciplinary action will be based upon the circumstances of the infraction.

Confidentiality and Record-Keeping

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent action. (5 California Code of Regulations [CCR] 4964)

The Superintendent or his/her 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 and during school-related activities.

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

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SEXUAL HARASSMENT (continued)

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) 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
Oano by Kate S. v. McCafrey, (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
U.S. DEPARTMENT OF EDUCATION, 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 Answers on Title IX and Sexual Violence, April 2014
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

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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CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California