

discrimination. The Board prohibits sexual and gender-based harassment of students by other students, employees or other persons, while on school grounds, while going to or coming from school, while at school activities on off school grounds, while on District transportation, or while otherwise in a District program or activity. The Board also prohibits retaliatory behavior or action against any persons who files a complaint, testifies, or otherwise participates in District complaint procedures.

Sexual Harassment Under District Policy

“Sexual harassment under District policy means unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code § 212.5; 5 CCR § 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any District program or activity.

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

(cf. 5131 -Conduct)

(cf. 5131.2 -Bullying)

(cf. 5137 -

“Nonconsensual touching,” as defined in Penal Code section 243.4, means touching another person’s intimate part against that person’s will. “Touch” means direct physical contact or contact through the clothing of either person. “Intimate part” means sexual organ, anus, groin, or buttocks of any person, or the breast of a female.

“Cyber sexual bullying,” as defined in Education Code section 48900(r)(2)(A)(iii), means electronic dissemination of or solicitation or incitement to electronically disseminate a sexually explicit image or recording, by a student to another student or to school personnel, that causes the student to be in fear of harm, or a substantially detrimental effect on the student’s physical or mental health, or the student’s ability to benefit from the educational environment.

Examples of conduct that may constitute sexual harassment under District policy, if unwelcome, include:

1. Suggestive or obscene letters, notes, invitations, graffiti, jokes, or comments; slurs; epithets; sexual gestures; and displays of sexually suggestive objects, pictures, or cartoons
2. Groping, sexual touching, leering, and impeding or blocking movement
3. Sexual conduct that would be considered criminal activity, including sexual assault and sexual exploitation
4. Continuing to express sexual interest after being informed that the interest is unwelcome (reciprocal attraction, among peers, is not considered sexual harassment)
5. Threatening to withhold grades earned or deserved or suggesting a scholarship recommendation or college application will be denied, as a condition of receiving sexual favors
6. Engaging in sexual behavior to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student
7. Offering favors or educational benefits, such as grades, assessments, assignments, and recommendations in exchange for sexual favors
8. Inappropriate sexual touching between students that, even if consensual, contributes to a sexually charged environment for other students who witness the behavior
9. Any sexual conduct or expression of sexual interest by an adult toward a student regardless of reciprocity.

Gender-Based Harassment Under District Policy

Gender-based harassment is sexual harassment and includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, although they are not necessarily sexual in nature. Prohibited conduct includes harassment of a student for exhibiting what is perceived as a stereotypical characteristic for their sex, or for nonconformance with stereotypical notions of masculinity and femininity.

“Gender” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.” (Education Code §210.7).

“Gender identity” refers to a person’s gender-related identity, appearance or behavior whether or not different from that traditionally associated with the person’s physiology or assigned sex at birth.

“Gender expression” refers to external cues that one uses to represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice patterns, or body characteristics.

“Transgender” describes people whose gender identity is different from that traditionally associated with their assigned sex at birth. “Transgender boy” and “transgender male” refer to an individual assigned the female sex at birth who has a male gender identity. “Transgender girl” and “transgender female” refer to an individual assigned the male sex at birth who has a female gender identity. An individual can express or assert a transgender gender identity in a variety of ways, which may but do not always include specific medical treatments or procedures. Medical treatments or procedures are not considered a prerequisite for one’s recognition as transgender.

“Gender nonconformity” refers to one’s gender expression, gender characteristics, or gender identity that does not conform to gender stereotypes “typically” associated with one’s legal sex assigned at birth, such as “feminine” boys, “masculine” girls and those who are perceived as androgynous. Sexual orientation is not the same as gender identity. Not all transgender youth identify as gay, lesbian or bisexual, and not all gay, lesbian and bisexual youth display gender nonconforming characteristics.

Examples of conduct that may constitute gender-related harassment include

1. Disparaging remarks made to a student or aggression toward a student because that student displays mannerisms or a style of dress perceived as indicative of the other sex
2. Hostility toward a student because that student participates in an athletic activity more typically favored by a student of the other sex.
3. Intimidating a student to discourage that student from enrolling in a particular area of study because of his/her gender
4. Use of gender-specific slurs, whether written or spoken.

Sexual Harassment Under Title IX

Some sexual harassment prohibited by District policy, as described above, may also be prohibited under Title IX. Under Title IX, sexual harassment toward a student means conduct on the basis of sex that satisfies at least one of the following:

1. An employee conditioning the provision of aid, benefit, or service of the District on the student-victim's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the District.

counseling, guidance, education about the impact of harassment, positive behavior support, referral to a student success team, transfer to alternative programs or denial of participation in extracurricular or curricular activities or other privileges. For students in grades 4 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing discipline the entire circumstances of the incident(s) shall be taken into account.

(cf. 5144 -Discipline)

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

Upon completion of an investigation of a sexual or gender based harassment complaint, any employee found to have engaged in sexual or gender based harassment toward any student shall be subject to discipline under 201 C.S. 1-6 (r).

GOVERNMENT CODE

[12950.1](#) Sexual harassment training

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

Q&A on Campus Sexual Misconduct, September 2017

Dear Colleague Letter Title IX Coordinators, April 2015

Dear Colleague Letter Sexual Violence, April 4, 2011

Sexual Harassment: 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>

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