

# Santa Barbara Unified School District Board Policy

**Students**

**BP 5145.7**

## **SEXUAL HARASSMENT**

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. The Board also prohibits retaliatory behavior or action against any 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 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 without delay.

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

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

*(cf. 5145.3 - Nondiscrimination/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 Superintendent or 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:

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. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
6. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable

### **Disciplinary Actions**

Any student who engages 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 found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/or collective bargaining agreements.

*(cf. 4117.4 - Dismissal)*

*(cf. 4117.7 - Employment Status Report)(cf. 4118 - Suspension/Disciplinary Action)*

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

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

### **Record-Keeping**

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.

*(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

##### 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.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

*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>

SANTA BARBARA UNIFIED SCHOOL DISTRICT

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