Information Sheet – 3/12/19 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.2

FROM: Celli Coeville

DATE: March 7, 2019

RE: Revised Administrative Regulation, A/R 5145.7, Sexual Harassment, consider adoption as presented

The coordinator/compliance officer for A/R 5145.7, Sexual Harassment, should be the Director of Human Resources.

Recommendation: Approve the revised A/R 5145.7 as presented

SEXUAL HARASSMENT

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 and California Education Code 234.1, as well as to investigate and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The coordinator/compliance officer(s) may be contacted at:

Director of Human Resources
1219 Whispering Wind Drive
Tracy, CA 95377
(209) 836-3388

~~Superintendent~~
~~1219 Whispering Wind Drive, Tracy California, 95377~~
~~209-836-3388~~

(cf. 1312.3 - Uniform Complaint Procedures)

Prohibited sexual harassment includes, but is not limited to, 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. 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)

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

SEXUAL HARASSMENT (continued)

1. Unwelcome leering, sexual flirtations, or propositions

2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions

3. Graphic verbal comments about an individual's body or overly personal conversation

4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature

5. Spreading sexual rumors

6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class

7. Massaging, grabbing, fondling, stroking, or brushing the body

8. Touching an individual's body or clothes in a sexual way

9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex

10. Displaying sexually suggestive objects

11. Sexual assault, sexual battery, or sexual coercion

Reporting Process and Complaint Investigation and Resolution

Any student who believes that he/she has been subjected to sexual harassment or who has witnessed sexual harassment is strongly encouraged to report the incident to his/her teacher, the principal, or any other available school employee. Within one school day of receiving such a report, the school employee shall forward the report to the principal or the district's compliance officer identified in AR 1312.3. In addition, any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report his/her observation to the principal or a district compliance officer. The employee shall take these actions, whether or not the alleged victim files a complaint.

In any case of sexual harassment involving the principal, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted the Superintendent or designee.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

SEXUAL HARASSMENT (continued)

When a report of sexual harassment is submitted, the principal or compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with the district's uniform complaint procedures.

If a complaint of sexual harassment is initially submitted to the principal, he/she shall, within two school days, forward the report to the compliance officer to initiate investigation of the complaint. The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and district procedures specified in AR 1312.3.

Confidentiality

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)

However, when a complainant or victim of sexual harassment notifies the district of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant or victim of sexual harassment notifies the district of the harassment but requests that the district not pursue an investigation, the district will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

Response Pending Investigation

When an incident of sexual harassment is reported, the principal or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary pending the results of the investigation. The principal/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. Such measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher, in accordance with law and Board policy. The school should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such actions shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

SEXUAL HARASSMENT (continued)

Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted, including school web sites (Education Code 231.5)

(cf. 1113 - District and School Web Sites)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)

4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

5. Be included in the student handbook

6. Be provided to employees and employee organizations