Information Sheet – 09/08/2020 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.6

FR: Celli Coeville

DATE: September 2, 2020

RE: Revised Board Policy and Administrative Regulation, BP/AR 5145.7, Sexual Harassment, Consider for Adoption

Board Policy 5145.7, Sexual Harassment, has been updated to include examples of actions to reinforce the district's sexual harassment policy, consistent with New Law (AB 34, 2019) which requires posting the sexual harassment policy on the district's web site and New Law (AB 543, 2019) which requires displaying a poster and providing the sexual harassment policy in student orientations. The policy also reflects New Federal Regulations (85 Fed. Reg. 30026) which require that complaints of behavior that meet the federal definition of sexual harassment be addressed through the new Title IX complaint procedures. The title of the compliance officer has been changed to Title IX Coordinator throughout the policy pursuant to federal regulations.

The Administrative Regulation has been updated to reflect New Federal Regulations (85 Fed. Reg. 30026) which amend the process for resolving complaints of sexual harassment, including, but not limited to, requirements to designate a Title IX Coordinator and disseminate the Coordinator's contact information. The regulation also reflects New Law (AB 543, 2019) which requires the district to create a poster notifying students of the district's sexual harassment policy and to display the poster in specified locations, and requires the district to provide a copy of the policy to students as part of any orientation program for new and continuing students. The regulation reflects New Law (AB 34, 2019) which requires the district to post the district's sexual harassment policy and the definition of sexual harassment in a prominent location on the district's web site.

I've highlighted the proposed changes and indicated the differences in red font.

Recommended Action: Approve Revised BP/AR 5145.7, Sexual Harassment

SEXUAL HARASSMENT

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, portions of the following administrative regulation will not take effect.

Note: Education Code 231.5 and 34 CFR 106.8 mandates the district to have written policies on sexual harassment. The following policy addresses harassment by and of students in the school setting. As part of this mandate, the district should also adopt a sexual harassment policy related to employees; see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

Both federal law (Title IX of the Education Amendments of 1972) (20 USC 1681-1688; 34 CFR 106.1-106.82) and state law (Education Code 220, 231.5) prohibit sexual harassment and require districts to establish procedures for the prompt and equitable resolution of sexual harassment complaints. Whether a complaint is addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, or the state uniform complaint procedures adopted pursuant to 5 CCR 4600-4670 is dependent on whether the alleged conduct meets the more stringent federal definition or the state definition of sexual harassment. See the accompanying administrative regulation, BP/AR 1312.3 - Uniform Complaint Procedures, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

A district can be held liable for civil damages for the sexual harassment of students pursuant to Title IX, if the district is found to have been "deliberately indifferent" in its response to known sexual harassment. Pursuant to 34 CFR 106.30, a district is deliberately indifferent if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.

In addition to filing a private civil lawsuit, an alleged victim of sexual harassment may file a complaint with the California Department of Education (CDE) and/or the U.S. Department of Education's Office for Civil Rights (OCR), the federal agency responsible for administrative enforcement of federal laws and regulations that prohibit discrimination in programs and activities that receive federal financial assistance from the U.S. Department of Education.

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, sexual harassment targeted at any student by anyone. 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.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5137 - Positive School Climate)
(cf. 5145.3 - Nondiscrimination/Harassment)

SEXUAL HARASSMENT (continued)

Note: 34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment in an education program or activity, to respond promptly in a manner that is not unreasonable in light of the known circumstances. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school.

It is important to note that a referral to law enforcement does not relieve a school district of its responsibility to investigate the complaint as a matter of sex discrimination.

The district strongly encourages ~~any~~ students who feel~~s~~ that ~~he/she is~~ they are being or ~~has~~ have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who have experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact ~~his/her~~ their teacher, the principal, the district's Title IX Coordinator, 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~~ Title IX Coordinator.

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through Title IX complaint procedures or uniform complaint procedures, as applicable, and shall offer supportive measures to the complainant.

~~*(cf. 0410 - Nondiscrimination in District Programs and Activities)*~~
(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 – Uniform Complaint Procedures)
~~*(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. 5145.71 – Title IX Sexual Harassment Complaint Procedures)
~~*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*~~

Note: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to post the district's written policy on sexual harassment in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students.

Education Code 231.6, as added by AB 543 (Ch. 428, Statutes of 2019), requires districts serving students in grades 9-12 to create a poster that notifies students of the district's sexual harassment policy, and to display it prominently and conspicuously in each bathroom and locker room on campus.

Education Code 231.5, as amended by AB 543, requires the district to provide a copy of the district's sexual harassment policy as part of any orientation program conducted for new and continuing students.

Pursuant to 34 CFR 106.8, the district is required to notify students, parents/guardians, employees, and bargaining units of its policy to not discriminate on the basis of sex as well as its complaint procedures and processes, and to post this information in a prominent location on the district's web site and in student and staff handbooks.

Requirements related to the dissemination of the district's sexual harassment policy and procedures and best practices for reinforcing the policy are addressed in the accompanying administrative regulation.

~~Complaints regarding sexual harassment shall be investigated and resolved in accordance with~~

SEXUAL HARASSMENT (continued)

~~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~~ inform students and parents/guardians of the district's sexual harassment policy by disseminating it through parent/guardian notifications, publishing it on the district's web site, and including it in student and staff handbooks. All district staff shall be trained regarding the 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

Note: Where sexual harassment or violence occurs in the context of other possible rule violations, students may be reluctant to report sexual harassment or violence. For example, a student who is sexually harassed while away from school without permission may be reluctant to file a complaint if the student believes discipline will be imposed for the violation. As such, item #4 below clarifies that any other rule violation will be addressed separately from the sexual harassment complaint in order to encourage students to report the harassment.

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 action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students

~~5~~ 6. Information about the district's procedures for investigating complaints and the person(s) to whom a report of sexual harassment should be made

~~6~~ 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

SEXUAL HARASSMENT (continued)

8. A clear message that, when needed, the district will implement supportive 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

Disciplinary Actions

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment.

Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

Upon completion of an investigation of a sexual harassment complaint, ~~A~~any student ~~who~~ found to have engage~~s~~d 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))

Upon investigation of a sexual harassment complaint, ~~A~~any ~~staff member~~ employee found to have engaged in sexual harassment or sexual violence toward any student shall be subject to ~~discipline~~ disciplinary action, up to and including dismissal, in accordance with ~~applicable policies,~~ law~~s~~, and~~/or~~ the applicable collective bargaining agreement~~s~~.

~~*(cf. 4117.4 – Dismissal)*~~
(cf. 4117.7/4317.7 - Employment Status Report)
(cf. 4118 – Dismissal/Suspension/Disciplinary Action)
(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
~~*(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)*~~

Record-Keeping

In accordance with law, t~~T~~he 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

SEXUAL HARASSMENT (continued)

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
48985 Notices, report, statements and records in primary language
CIVIL CODE
51.9 Liability for sexual harassment; business service and professional relationships

Legal Reference (continued):

1714.1 Liability of parents/guardians for willful misconduct of minor
GOVERNMENT CODE
12950.1 Sexual harassment training
CODE OF REGULATIONS, TITLE 5
4600-46~~87~~70 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs
UNITED STATES CODE, TITLE
1092 Definition of sexual assault
1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX~~, discrimination~~ of the Education Amendments of 1972
UNITED STATES CODE, TITLE 34
12291 Definition of dating violence, domestic violence, and stalking
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~~ 106.82 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~~, 2000, 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~~
Q & A on Campus Sexual Misconduct, September 2017
~~Dear Colleague Letter: Sexual Violence, April 4, 2011~~
Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
Dear Colleague Letter: Title IX Coordinators, April 2015
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

SEXUAL HARASSMENT

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. However, in June 2020, two motions for a preliminary injunction were filed seeking to postpone the effective date of the regulations and prohibit their enforcement. If the court issues an injunction, portions of this administrative regulation reflecting the Title IX regulations will not be in effect. CSBA will notify districts when the court issues its decision.

Districts are also cautioned that the federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions arise.

Note: Education Code 231.5 and Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibit discrimination based on sex, including sexual harassment, and mandate that the district adopt and publish complaint procedures. Also see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Title IX Coordinator

Note: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX and its implementing regulations. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the compliance officer(s) for the district's uniform complaint procedures pursuant to AR 1312.3 - Uniform Complaint Procedures. Districts may modify this regulation to designate separate district employees to serve these functions.

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)~~ Title IX Coordinator may be contacted at:

Director of Human Resources
1219 Whispering Wind Drive
Tracy, CA 95377
(209) 836-3388
ncastro@jsdtracy.com

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

The district shall notify students, parents/guardians, employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator. (34 CFR 106.8)

Prohibited Conduct

Note: Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment for the victim; see AR 5144.1 - Suspension and Expulsion/Due

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Process. Conduct that meets the federal definition of sexual harassment in 34 CFR 106.30 (i.e., (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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 person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291) requires investigation and resolution through Title IX regulations; see AR 5145.71 - Title IX Sexual Harassment 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)

Note: The following list contains common examples of sexual harassment from the OCR January 2001 Revised Sexual Harassment Guidance, and definitions specified in 5 CCR 4916.

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

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

SEXUAL HARASSMENT (continued)

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

12. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

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 (Education Code 231.5)

Note: Education Code 231.6, as added by AB 543 (Ch. 428, Statutes of 2019), requires districts serving students in grades 9-12 to create a poster that notifies students of the district's sexual harassment policy, and to display it, as specified below. The district may partner with local, state, or federal agencies, or nonprofit organizations, for the purposes of the design and content of the poster.

3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for

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reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

Note: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to post on the district's web site the district's written policy on sexual harassment as well as other state and federal law requirements, in the manner specified below. 34 CFR 106.8 also requires districts that have web sites to prominently display the contact information for the Title IX Coordinator and the district's nondiscrimination policy on its web site.

4. Be posted in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. This shall include the name or title, office address, email address, and telephone number of the employee(s) designated as the district's Title IX Coordinator. (Education Code 234.6; 34 CFR 106.8)

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)

Note: Education Code 231.5, as amended by AB 543, requires the district to provide a copy of the district's sexual harassment policy as part of any orientation program conducted for new and continuing students.

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

6. 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)

7. Be included in any handbook provided to students, parents/guardians, employees, or employee organizations (34 CFR 106.8)

Reporting Complaints ~~Process and Complaint Investigation and Resolution~~

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

(cf.5141.4 – Child Abuse Prevention and Reporting)

SEXUAL HARASSMENT (continued)

~~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)*~~

When a report or complaint of sexual harassment involves off-campus conduct, the Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX Coordinator determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

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

Complaint Procedures

All complaints of sexual harassment by and against students shall be investigated and resolved in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 1312.3 – 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~~

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~~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.~~

~~**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~~