

Sexual Harassment

Prohibited sexual harassment and misconduct 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 gender, in the educational setting. Egregious examples of sexual harassment and misconduct include: (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

Additionally, any consensual sexual relationship between an employee/volunteer and student, including students who have reached the age of consent, is prohibited.

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. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures, electronic communication, or gestures
5. Spreading sexual rumors, including those spread via electronic communication
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Purposefully cornering or blocking normal movements with sexual intent
10. Displaying sexually suggestive objects
11. Homophobic taunts or other slurs related to sexual orientation
12. The conduct includes excessive or repeated touching of a student that is without a clear educational purpose.

Preventing Sexual Harassment and Misconduct

In an effort to prevent the occurrence or perception of sexual misconduct, the following precautions shall be taken by all employees:

1. Employees shall, whenever possible, avoid closed door meetings and before/during/after school hours activities with only one student.
2. On any student trip away from school, there shall be a minimum of two chaperones, preferably a man and a woman.

Notifications

A copy of the district's sexual harassment policy 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)
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)
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 provided to employees and employee organizations

Investigation of Complaints at School (Site-Level Grievance Procedure)

1. Notice and Receipt of Complaint: Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the Coordinator/Principal. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Coordinator/Principal, whether or not the victim files a complaint.

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

2. The Coordinator/Principal shall report a complaint to the Superintendent using the Confidential Incident Report form. Even if no complaint is filed, the Coordinator/Principal has a duty to investigate suspected sexual harassment or misconduct.

3. Initiation of Investigation: The Coordinator/Principal shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The district shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

4. The Coordinator/Principal and Superintendent shall determine whether the Coordinator/Principal, a designee, or an independent investigator will investigate the complaint. In cases of complaints filed against an employee, an independent investigator shall investigate the complaint. That person shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:

- a. The student who is complaining
- b. The person accused of harassment
- c. Anyone who witnessed the conduct complained of
- d. Anyone mentioned as having related information

5. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.

6. The Coordinator/Principal or designee shall discuss the complaint only with the people described above. If the complaint regards occurrences for which the Coordinator/Principal or designee has a reasonable suspicion of child abuse, the Coordinator/Principal or designee is mandated to report to law enforcement and/or child protective agencies as per Board Policy and Administrative Regulation 5141.4. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the Coordinator/Principal or designee also may discuss the complaint with the following persons:

- a. The Superintendent or designee
- b. The parent/guardian of the student who complained
- c. If the alleged harasser is a student, his/her parent/guardian
- d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
- e. Child protective agencies responsible for investigating child abuse reports
- f. Legal counsel for the district

7. The complainant shall not be required or asked to meet with the alleged harasser or person suspected of sexual misconduct. If the alleged harasser or person suspected of sexual misconduct is a district employee or volunteer, then during the course of the investigation, he/she shall discontinue contact with students.

8. In reaching a decision about the complaint, the Assistant Superintendent of Human Resources or designee and/or independent investigator may take into account:

- a. Statements made by the persons identified above
- b. The details and consistency of each person's account
- c. Evidence of how the complaining student reacted to the incident
- d. Evidence of any past instances of harassment by the alleged harasser

e. Evidence of any past harassment complaints that were found to be untrue

9. To judge the severity of the harassment, the Assistant Superintendent of Human Resources or designee and/or independent investigator may take into consideration:

a. How the misconduct affected one or more students' education

b. The type, frequency, and duration of the misconduct

c. The number of persons involved

d. The age and gender of the person accused of harassment

e. The subject(s) of harassment

f. The place and situation where the incident occurred

g. Other incidents at the school, including incidents of harassment that were not related to gender

10. The Assistant Superintendent of Human Resources or designee and/or independent investigator shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the student who complained and the person accused.

11. The Assistant Superintendent of Human Resources or designee and/or independent investigator shall give the Superintendent or designee a written report of the complaint and investigation. If the principal or designee verifies that sexual harassment occurred, this report shall describe the actions taken to end the harassment, address the effects of the harassment on the student harassed, and prevent retaliation or further harassment.

12. Within two weeks after receiving the complaint, the Coordinator/Principal or designee shall determine whether or not the student who complained has been further harassed. The Coordinator/Principal or designee shall keep a record of this information and shall continue this follow-up.

Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti.

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

3. Notifying parents/guardians of the actions taken.

4. Notifying child protective services.

5. Taking appropriate disciplinary action. In addition, the Coordinator/Principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

6. If an employee is found to be in violation of this policy, disciplinary action shall include, at a

minimum, a letter of reprimand, which shall be placed in the employee's personnel file. That letter shall not be expunged under any circumstances.

Support for Students

The Superintendent or designee shall take appropriate actions to provide support for students who have been subjected to sexual harassment and/or misconduct by a district employee or volunteer.

1. The Principal or designee will make it clear to the affected student(s) and the parents/guardians that any form of retaliation or mistreatment of a student who complained will not be tolerated.
2. In instances where there were substantiated findings that a student was subjected to sexual harassment/misconduct by a district employee or volunteer, the district will offer, and upon the request of the parent/guardian, will assist the student in receiving therapeutic intervention.

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)
2. 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)
3. Be included in the student handbook
4. Be provided to employees and employee organizations

Regulation SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

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