

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

Students

AR 4119.12/4219.12/4319.12

Personnel

AR 5145.71

Students

The district does not discriminate on the basis of sex in any of its programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106). The district is committed to maintaining an educational and workplace environment free from sexual harassment.

Title IX Sexual Harassment Prohibited

Sexual Harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited in district education programs or activities. Title IX Sexual Harassment is conduct on the basis of sex in an education program or activity that satisfies one or more of the following: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person'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
3. Sexual assault as defined in 20 U.S.C. §1092(f)(6)(A)(v)

For the purpose of this AR, the district defines "consent" as knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity.

Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time.

A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (1) the person is incapacitated due to the use or influence of alcohol or drugs; (2) the person is asleep or unconscious; (3) the person is under age; or (4) the person is incapacitated due to a mental disability.

The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.

4. Dating violence as defined in 34 U.S.C. §12291(a)(10)
5. Domestic violence as defined in 34 U.S.C. §12291(a)(8)
6. Stalking as defined in 34 U.S.C. §12291(a)(30).

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

(cf. 5145.7 - Sexual Harassment)

Term Definitions (34 C.F.R. §106.30)

The following Title IX definitions apply to the following terms used in this Administrative Regulation:

Complainant - an individual who is alleged to have been subject to conduct that could constitute Title IX Sexual Harassment at a time when the individual was participating in or attempting to participate in, a district education program or activity.

Education program or activity - locations, events, or circumstances where the district has substantial control over both respondent(s) and the context in which alleged Title IX Sexual Harassment occurred.

Formal Complaint - a document filed by a complainant (or a complainant's parent or guardian) or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent(s) and requesting that the district investigate the allegation.

Respondent - an individual who is alleged to have engaged in conduct that could constitute Title IX Sexual Harassment.

Supportive measures - non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to complainant(s) or respondent(s) before or after the filing of a formal complaint or where no formal complaint has been filed.

Title IX Sexual Harassment Complaints

The complaint procedures set forth in this Administrative Regulation will be used to address any report of Title IX Sexual Harassment in a district education program or activity to the extent required by Title IX.

Should the Title IX Regulations be modified or repealed, the district will implement only the aspects of these procedures required by law. If permitted by law, the district will address reports of sexual harassment, including Title IX Sexual Harassment, in accordance with AR 4030, Nondiscrimination in Employment, or AR 1312.3, Uniform Complaint Procedure, as applicable.

Non-Title IX Sexual Harassment Complaints

Reports of sexual harassment not covered by the definition of Title IX Sexual Harassment will be addressed in accordance with AR 4030, Nondiscrimination in Employment, or AR 1312.3, Uniform Complaint Procedure, as applicable. The determination of whether the allegations meet the definition of Title IX Sexual Harassment under Title IX will be made by the district's Title IX Coordinator.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 1312.3 - Uniform Complaint Procedure)

Reporting Title IX Sexual Harassment

Anyone who believes they have experienced, witnessed or received a report of Title IX Sexual Harassment is strongly encouraged to report the incident to the district's Title IX Coordinator, district administrator, or any district employee with whom the person is comfortable.

District employees receiving a report of or witnessing Title IX Sexual Harassment are required to report it to the Title IX Coordinator. An employee who fails to promptly report or forward a report of Title IX Sexual Harassment to the Title IX Coordinator may be disciplined, up to and including dismissal.

Title IX Coordinator

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Processing Reports of Title IX Sexual Harassment

Upon receiving such a report, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, inform the complainant of the right to file a formal complaint and explain the process for filing a formal complaint. (34 CFR 106.44)

Supportive Measures

Upon receipt of a report of Title IX Sexual Harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures and will consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures will be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures will be non-disciplinary, non-punitive, and designed to restore or preserve equal access to the district's education program and activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to complainants and respondents. (34 CFR 106.30, 106.44)

The district will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

Administrative Leave

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Emergency Removal

A student may not be disciplined for alleged Title IX Sexual Harassment until the formal complaint process is completed and a determination of responsibility has been made. However, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

Formal Complaint

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email. (34 CFR 106.30)

Even if the Complainant chooses not to file a formal complaint, the Title IX Coordinator may sign a formal complaint in situations when a safety threat exists and in other situations as permitted under Title IX, including as part of the district's obligation to not be deliberately indifferent to known allegations of Title IX Sexual Harassment. In such cases, the Title IX Coordinator is not a party to the formal complaint. The Title IX Coordinator will provide notices to the complainant as required by Title IX.

The district may consolidate formal complaints of Title IX Sexual Harassment against more than one respondent, or by more than one complainant, or by one party against another, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

Formal Complaint Process

The district treats complainants and respondents engaging in the formal complaint process equitably. Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of this formal complaint process. (34 CFR 106.45(b)(1)(iv)) The district complies with this formal complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent. (34 CFR 106.45(b)(1)(i))

Anyone designated by the district as a Title IX Coordinator, investigator, decisionmaker, appeal decisionmaker, or informal resolution facilitator will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and will receive training in accordance with 34 CFR 106.45. (34 CFR 106.45(b)(1)(iii))

Written Notice of Allegations

Upon receipt of a formal complaint, the Title IX Coordinator will provide the known parties with written notice of allegations including the following: (34 CFR 106.45(b)(2))

1. Notice of this formal complaint process, including any informal resolution process
2. The allegations potentially constituting Title IX Sexual Harassment with sufficient details known at the time, including the identities of parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident, if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX Sexual Harassment allegations arise about the complainant or respondent that are not included in this initial notice of allegations, the Title IX Coordinator will provide notice of the additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. Notice that the parties may have an advisor of their choice who may be, but is not required to be, an attorney.
5. Notice that the parties and their advisors, if any, will have an opportunity to inspect and review evidence
6. Advise the parties that the district's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the formal complaint process
7. When possible, the name of the investigator, and decisionmaker, and inform the parties that, if at any time a party has concerns regarding a conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

Dismissal of Formal Complaint

The Title IX Coordinator must dismiss a formal complaint if the alleged conduct: (1) would not constitute Title IX Sexual Harassment as defined in 34 CFR 106.30 even if proved, (2) did not occur in the district's education program or activity, or (3) did not occur against a person in the United States. Such conduct may still be address pursuant to other district Board policies and administrative regulations including, but not limited to, AR 4030 - Nondiscrimination in Employment, or BP/AR 1312.3, Uniform Complaint Procedure, as applicable.

At any time during the investigation, the Title IX Coordinator may dismiss a formal complaint of Title IX Sexual Harassment if: (1) the complainant notifies the district in writing that the complainant would like to withdraw the formal complaint or any allegations in the formal complaint, (2) the respondent is no longer enrolled or employed by the district, or (3) specific circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the formal complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties and inform them of their right to appeal the dismissal of a formal complaint or any allegation in the formal complaint in accordance with the appeal procedures described in the "Appeals" section below. (34 CFR 106.45)

Informal Resolution

After a formal complaint of Title IX Sexual Harassment is filed, but at any time before a determination regarding responsibility is reached, the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

Prior to facilitating an informal resolution process, the district will: (34 CFR 106.45(b)(9))

1. Provide the parties with written notice disclosing:
 1. the allegations;
 2. the requirements of the informal resolution process including the circumstances under which the parties are precluded from resuming the formal complaint process arising from the same allegations;
 3. the right of either party to withdraw from the informal resolution process and resume the formal complaint process at any time prior to agreeing to a resolution; and
 4. that the district's informal resolution process is confidential and any consequences resulting from participating in the informal resolution process, including the records of the informal resolution process that will be maintained or could be shared.
2. Obtain the parties' voluntary, written consent to the informal resolution process

Informal resolution is not available to resolve allegations of Title IX Sexual Harassment by a student against an employee.

Investigation Procedures

The burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rest on the district and not the parties.

Unless a party provides voluntary, written consent, the district cannot access, consider, disclose, or otherwise use a party's records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made and maintained in connection with the provision of treatment to the party. (34 CFR 106.45(b)(5)(i))

During the investigation process, the district's designated investigator will: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding. All party advisors are limited to providing support and may not be direct participants. This conduct expectation applies equally to complainants and respondents.

5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Prior to the completion of the investigative report, provide the parties, and their advisors, if any, an equal opportunity to inspect and review any evidence directly related to the allegations in the formal complaint including evidence the district does not intend to rely in reaching a determination, and provide the parties 10 calendar days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, 10 calendar days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

The district's investigator will not require, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless the person holding the privilege has waived the privilege. (34 CFR 106.45(b)(1)(x))

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with Title IX.

Written Determination

The Title IX Coordinator shall designate a decisionmaker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator, investigator or appeal decisionmaker on the formal complaint. (34 CFR 106.45(b)(7))

After the investigative report has been sent to the parties, but before reaching a determination of responsibility, the decisionmaker will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

The decisionmaker will notify the parties and witnesses of the following applicable timelines for the submission of questions and responses:

1. The parties have 5 calendar days to submit their questions to the decisionmaker after receiving notice of the opportunity to submit questions from the decisionmaker.
2. After receipt of the questions, the parties and witnesses have 3 calendar days to submit their responses to the questions to decisionmaker.
3. When providing the questions and responses to both parties, the decisionmaker will explain to the party proposing the questions any decision to exclude a question as not relevant. Upon receipt of the responses to the questions, the parties will have 3 calendar days to submit limited follow-up questions.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45(b)(6)(ii)) The district's decisionmaker will not require, rely upon, allow, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless the person holding the privilege has waived the privilege. (34 CFR 106.45(b)(1)(x))

The written determination shall be issued within 120 calendar days of the receipt of the formal complaint. However, the time for completing the formal complaint process will be temporarily delayed during school recess periods exceeding three consecutive days. The timeline may be extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. Good cause may include, but is not limited to, absence of a party, witness, or party advisor; concurrent law enforcement activity; participation in the informal resolution process; or need for language assistance or disability accommodation. (34 CFR 106.45(b)(1)(v))

The decisionmaker shall issue, and simultaneously provide to both parties, a written determination as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45(b)(7)) In making this determination, the decisionmaker shall use the "preponderance of the evidence" standard for all formal complaints of Title IX Sexual Harassment. (34 CFR 106.45(b)(1)(vii)) The decisionmaker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness. (34 CFR 106.45(b)(1)(ii))

The written determination will include the following: (34 CFR 106.45(b)(7))

1. Identification of the allegations potentially constituting Title IX Sexual Harassment as defined in 34 CFR 106.30;
2. A description of the procedural steps taken from receipt of the formal complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the district's code of conduct or policies to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

Unless a party provides voluntary, written consent, the district cannot access, consider, disclose, or otherwise use a party's records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made and maintained in connection with the provision of treatment to the party. (34 CFR 106.45(b)(5)(i))

Appeals

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the formal complaint, if: (1) the party believes that a procedural irregularity affected the outcome, (2) new evidence, not reasonably available at the time of the determination, that could affect the outcome, or (3) a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decisionmaker(s) affected the outcome. An appeal must be filed in writing with the Title IX Coordinator within 10 calendar days of receiving the written determination or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

If an appeal is timely filed, the district shall: (34 CFR 106.45(8))

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the appeal decisionmaker is trained in accordance with 34 CFR 106.45 and is not the decisionmaker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties 10 calendar days to submit a written statement in support of or challenging the outcome
4. Issue a written decision describing the result of the appeal (e.g., affirms, reverses, remands, or amends the written determination regarding responsibility) and the rationale for the result within 20 calendar days from the deadline for the parties to submit their written statement in support of or challenging the outcome
5. Provide the written decision simultaneously to both parties within 5 business days of issuing the decision

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

Remedies

When a determination of responsibility for Title IX Sexual Harassment has been made against the respondent, the district shall provide remedies to the complainant. Remedies will be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. (34 CFR 106.45) The Title IX Coordinator is responsible for effective implementation of any remedies. (34 CFR 106.45(b)(7)(iv))

Sanctions/Disciplinary Actions/Corrective Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than

supportive measures as described above in the section “Supportive Measures,” until the formal complaint process has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the formal complaint process, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

(cf. 5144 - Discipline)

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

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others
4. Positive behavior support
5. Referral of the student to a student success team

(cf. 6164.5 - Student Success Teams)

6. Behavior Review
7. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(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)

Recordkeeping

The Title IX Coordinator shall maintain records of the following for a period of seven years: (34 CFR 106.45(b)(10))

1. All reported allegations and Title IX Sexual Harassment investigations, any determinations of responsibility, any disciplinary sanctions imposed on respondent, and any remedies provided to the complainant designed to restore equal access to the District’s education

program or activity

2. Any appeal and the result
3. Any informal resolution and the results.
4. Any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, the district will document the basis for its conclusion that its response was not deliberately indifferent and the measures taken that were designed to restore or preserve equal access to the education program or activity. If no supportive measures were provided to the complainant, the district will document the reasons that such a response was not unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district from providing additional explanations or detailing additional measures in the future.
5. All materials used to train the Title IX Coordinator, investigator(s), decisionmaker(s), and informal resolution facilitators. The district shall make such training materials publicly available on its website.

(cf. 1113 - District and School Web Sites)

(cf. 3580 - District Records)

Board Policy 0410 – Nondiscrimination in District Programs and Activities

This policy shall apply to all acts related to a school activity or school attendance and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board is committed to providing equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, reproductive health decision-making, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

All individuals shall be treated equitably in the receipt of district and school services. Personally identifiable information collected in the implementation of any district program, including, but not limited to, student and family information for the free and reduced-price lunch program, transportation, or any other educational program, shall be used only for the purposes of the program, except when the Superintendent or designee authorizes its use for another purpose in accordance with law. Resources and data collected by the district shall not be used, directly or by others, to compile a list, registry, or database of individuals based on race, gender, sexual orientation, religion, ethnicity, national origin, or immigration status or any other category identified above.

District programs and activities shall be free of any discriminatory use, selection, or rejection of textbooks, instructional materials, library books, or similar educational resources. The use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be rejected or prohibited by the Board or district on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

Additionally, the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be adopted by the Board or district if the use would subject a student to unlawful discrimination as specified in Education Code 220. (Education Code 244)

District programs and activities shall be free of any racially derogatory or discriminatory school or athletic team names, mascots, or nicknames.

The Superintendent or designee shall annually review district programs and activities to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing district programs and activities. The Superintendent or designee shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

Except for allegations of sexual harassment, all allegations of unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with Board Policy and Administrative Regulation 1312.3 - Uniform Complaint Procedure, for students, and Administrative Regulation 4030 – Nondiscrimination in Employment for employees. Complaints alleging sexual harassment, as defined by 34 CFR 106.3, shall be investigated and resolved in accordance with Administrative Regulation 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, for students, and

Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 34 CFR 104.8 and 34 CFR 106.8, the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in the annual parental notification distributed pursuant to Education Code 48980 and, as applicable, in announcements, bulletins, catalogs, handbooks, application forms, or other materials distributed by the district. The notification shall also be posted on the district's website and social media and in district schools and offices, including staff lounges, student government meeting rooms, and other prominent locations as appropriate.

In addition, the annual parental notification shall inform parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, including information on educational rights issued by the California Attorney General. Alternatively, such information may be provided through any other cost-effective means determined by the Superintendent or designee. (Education Code 234.7)

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a school's students speak a single primary language other than English, those materials shall be translated into that other language. (Education Code 48985; 20 USC 6312)

Access for Individuals with Disabilities

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act (ADA) and any implementing standards and/or regulations. When structural changes to existing district facilities are needed to provide individuals with disabilities access to programs, services, activities, or facilities, the Superintendent or designee shall develop a transition plan that sets forth the steps for completing the changes.

The Superintendent or designee shall ensure that the district's web and mobile applications comply with technical standards prescribed by law, and as necessary, shall provide appropriate auxiliary aids and services to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of district services, programs, or activities. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, assistive technologies or other modifications to increase accessibility to district and school websites, note takers, written materials, taped text, and Braille or large-print materials. Individuals with disabilities shall notify the Superintendent or designee if they have a disability that requires special assistance or services. Reasonable notification should be given prior to a school-sponsored function, program, or meeting.

The Superintendent is designated as the employee responsible for coordinating the district's response to complaints and for complying with state federal civil rights laws and is referred to as the compliance officer for purposes of this policy. The compliance officer shall receive and address requests for accommodation submitted by individuals with disabilities, and shall investigate and resolve complaints regarding their access to district programs, services, activities, or facilities.

Board Policy 1312.3 – Uniform Complaint Procedures

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:

1. Accommodations for pregnant and parenting students (Education Code 46015)
2. After School Education and Safety programs (Education Code 8482-8484.65)
3. Child care and development programs (Education Code 8200-8488)
4. Compensatory education (Education Code 54400)
5. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
6. Course periods without educational content (Education Code 51228.1-51228.3)
7. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

Discrimination includes, but is not limited to, the Board's refusal to approve the use or prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. Additionally, discrimination includes, but is not limited to, the Board's adoption or approval of use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library if the use would subject a student to unlawful discrimination pursuant to Education Code 220. A complaint alleging such unlawful discrimination may, in addition to or in lieu of being filed with the district, be directly filed with the Superintendent of Public Instruction (SPI). (Education Code 243, 244)

The UCP shall not be used to investigate and resolve employment discrimination complaints. (5 CCR 4611)

8. Educational and graduation requirements for students in foster care, students experiencing homelessness, students from military families, students formerly in a juvenile court school,

students who are migratory, and newcomer students (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

9. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)
10. Local control and accountability plan (Education Code 52075)
11. Migrant education (Education Code 54440-54445)
12. Physical education instructional minutes (Education Code 51210, 51222, 51223)
13. Student fees (Education Code 49010-49013)
14. Reasonable accommodations to a lactating student (Education Code 222)
15. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)
16. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)
17. State preschool programs (Education Code 8207-8225)
18. State preschool health and safety issues in license-exempt programs (Education Code 8212)
19. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
20. Any other state or federal educational program the SPI or designee deems appropriate

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with federal, state, and local laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation. The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)
3. Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.
4. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in Administrative Regulation 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Civil Rights Department.
5. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with Administrative Regulation 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)
6. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with Board Policy 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)
7. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with Board Policy 3555 - Nutrition Program Compliance. (5 CCR 15582)
8. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with Administrative Regulation 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186)

Administrative Regulation 1312.3 – Uniform Complaint Procedures

Except as may otherwise be specifically provided in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.

Compliance Officers

The district designates the individual below as responsible for receiving, coordinating, and investigating complaints and for complying with state and federal civil rights laws. The individual also serves as the Compliance Officer specified in Administrative Regulation 5145.3 -Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in Administrative Regulation 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment.

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The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, an appropriate administrator shall determine whether interim measures are necessary during an investigation and while the result is pending. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that the district will post a standardized notice of the educational and graduation requirements of foster youth, students experiencing homelessness, children of military families, former juvenile court school students now enrolled in the district, students who are migratory, and newcomer students as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable

11. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX, including specified information about Title IX complaint procedures, shall be posted on the district and district school websites and may be provided through district-supported social media, if available. (Education Code 221.61)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp. If a site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4600)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.
3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Governing Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred,

or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
7. When a complainant of unlawful discrimination, harassment, intimidation, or bullying or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action.

When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to permit the mediator access to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

The compliance officer shall begin an investigation into the complaint within 10 business days of receiving the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Timeline for Investigation Report

Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint.

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, or bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Investigation Report

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law

3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient (LEP) student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed. For complaints alleging unlawful discrimination, harassment, intimidation, or bullying based on state law, the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including, but not limited to, injunctions, restraining orders or other remedies or orders, 60 calendar days after the filing of an appeal with CDE (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus

5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law
3. The material findings of fact in the district's investigation report are not supported by substantial evidence
4. The legal conclusion in the district's investigation report is inconsistent with the law
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP
6. Other relevant information requested by CDE

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

Health and Safety Complaints in License-Exempt Preschool Programs

Any complaint regarding health or safety issues in a license-exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district notifying

parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE website. (Education Code 8212; 5 CCR 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8212; 5 CCR 4690)

If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8212; 5 CCR 4692)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8212; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8212; 5 CCR 4692)

If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled hearing and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8212; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent. (5 CCR 4693)

Board Policy 4030 – Nondiscrimination in Employment

The Governing Board is determined to provide a safe, positive environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. For purposes of this policy, employees include job applicants, interns, volunteers, and persons who contracted with the district to provide services, as applicable.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decision-making, defined as a person's decision to use or access a particular drug, device, product, or medical service for reproductive health. (Government Code 12926, 12940)

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that such inquiry is necessary to comply with federal immigration law. (2 CCR 11028)

Unless otherwise provided for in law, the district may not discriminate against an employee, including an applicant for employment, in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Hiring, compensation, terms, conditions, and other privileges of employment
2. Taking adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities or that has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environment
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
 1. Sexual harassment as specified in Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment.
 2. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on the district's failure or refusal

to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement

3. Requiring medical or psychological examination of a job applicant or making an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
4. Failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee
5. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision-making

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; 2 CCR 11028)

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign a release of the employee's claim or right to file a claim against the district or a non-disparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation. However, complaints alleging sexual harassment as defined in 34 CFR 106.3 shall be investigated and resolved in accordance with Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to their supervisor or district compliance officer within one business day. All other employees are encouraged to report such incidents to their supervisor or the district compliance officer immediately.

The Superintendent shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

The district shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the district is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

Administrative Regulation 4030 – Nondiscrimination in Employment

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation. However, complaints alleging sexual harassment as defined in 34 CFR 106.3 shall be investigated and resolved in accordance with Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. The district designates the position identified below as its Compliance Officer for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Shay Galletti
Principal/Superintendent
11601 Main Street,
Sunol, CA 94586
(925) 862-2026 Ext. 109
sgalletti@sunol.k12.ca.us

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Civil Rights Department (CRD) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)
2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.9)
 1. Including them in each announcement, bulletin, or application form that is used in employee recruitment
 2. Posting them in all district schools and offices, including staff lounges and other prominent locations
 3. Posting them on the district's website and providing easy access to them through district-supported social media, when available
3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
 1. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
 2. Sending a copy via email with an acknowledgment return form

3. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 4. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
 5. Any other way that ensures employees receive and understand the policy
4. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
 5. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made
- The district may also provide bystander intervention training to employees that includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)
6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law and Board Policy 4111 – Recruitment and Selection.
 7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

Complaint Procedure

Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.

Any other complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident

occurred, any witnesses who may have relevant information, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as

practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either CRD or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with CRD alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a complaint with EEOC after first filing a complaint with CRD , within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier (42 USC 2000e-5)

An employee may also file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the PUMP Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2)

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034

Board Policy 4033 – Lactation Accommodation

The Governing Board recognizes the immediate and long-term health benefits of breastfeeding and desires to provide a supportive environment for any district employee to express breast milk for an infant child upon returning to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee for seeking an accommodation to express breast milk for an infant child while at work.

(cf. 4030 - Nondiscrimination in Employment)

An employee shall notify the employee's supervisor or other appropriate district administrator in advance of the intent to request an accommodation. The supervisor or appropriate district administrator shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor shall address scheduling in order to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless limited circumstances exist as specified in law. (Labor Code 1031, 1032; 29 USC 218d, 42 USC 2000gg-1)

Before a determination is made to deny lactation accommodations to an employee, the employee's supervisor shall consult with the Superintendent or designee. When lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent or designee shall provide a written response to any employee who was denied the accommodation(s). (Labor Code 1034)

The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent or designee shall distribute the policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Break Time and Location Requirements

The district shall provide a reasonable amount of break time to accommodate an employee each time the employee has a need to express breast milk for an infant child. (Labor Code 1030; 42 USC 2000gg-1; 34 CFR 106.57)

To the extent possible, any break time granted for lactation accommodation shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 218d)

The employee shall be provided a lactation space which may be used by the employee for expressing breast milk or breastfeeding as needed. The lactation space shall be a private room or location, other than a bathroom, which may be the employee's work area or another location that is in close proximity to the employee's work area, and shall meet the following requirements: (Labor Code 1031; 29 USC 218d; 34 CFR 106.57)

1. Is shielded from view and free from intrusion while the employee is expressing breast milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code 6382

3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump
5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing breast milk in close proximity to the employee's workspace

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code 1031)

Dispute Resolution

An employee may file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the Providing Urgent Maternal Protections for Nursing Mothers Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2).

In addition, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

(cf. 4144/4244/4344 - Complaints)

Board Policy 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Governing Board is committed to providing a safe work environment that is free of discrimination, harassment, and intimidation. The Board prohibits sex discrimination, including sexual harassment, as defined in the accompanying administrative regulation, against district employees.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sexual harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to employees and others to whom the policy may apply
3. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

The Superintendent or designee may periodically evaluate the effectiveness of the district's strategies to prevent and address sexual harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment polic(ies), complaint procedures, or training, as appropriate and in accordance with law.

Reports and Complaints

Any district employee who feels that they have been sexually harassed in the performance of their district responsibilities shall immediately report the incident to their direct supervisor, a district administrator, or the district's Title IX Coordinator. Employees may bypass their supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the Title IX Coordinator.

Any employee with knowledge of conduct that reasonably may constitute sex discrimination or sexual harassment by or against another district employee, a student, or a third party in a district education program or activity shall notify the Title IX Coordinator within one business day.

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through either AR 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures for complaints meeting the Title IX definition of sexual harassment under 34 CFR 106.3, or AR 4030 - Nondiscrimination in Employment for complaints meeting the state definition, as applicable.

Because a complaint or allegation that is dismissed or denied under Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets the requirements of AR 4030.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant as deemed appropriate under the circumstances.

Upon investigation of a sexual harassment complaint, any district employee found to have engaged or participated in sexual harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

Administrative Regulation 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment

The district does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

The following administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

Definitions

Sex discrimination includes treating an employee differently based on the employee's sex; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or the student's association with a person or group with one or more of these actual or perceived characteristics.

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other 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 an individual's academic status or progress.
2. Submission to, or rejection, of the conduct by the individual is used as the basis for academic decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact on the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to, or rejection, of the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the district.

Under Title IX of the Education Amendments of 1972 , the following conduct constitutes sexual harassment: (34 CFR 106.3)

1. Quid Pro Quo Harassment: A district employee conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct;
2. Hostile Environment Harassment: Unwelcome sexual 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

“Sexual assault” as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#), “dating violence” as defined in [34 U.S.C. 12291\(a\)\(10\)](#), “domestic violence” as defined in [34 U.S.C. 12291\(a\)\(8\)](#), or “stalking” as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

Examples of Sexual Harassment

Examples of actions that might constitute sexual harassment under state and/or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; or messaging; or displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; or cornering, blocking, leaning over, or impeding normal movements

Title IX Coordinator/Compliance Officer

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 in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, as well as to oversee, investigate, and resolve sexual harassment complaints processed under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator may be contacted at:

Shay Galletti
Principal/Superintendent
11601 Main Street,
Sunol, CA 94586
(925) 862-2026 Ext. 109
sgalletti@sunol.k12.ca.us

Training

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sex-based harassment in accordance with state and federal law.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment as specified in Government Code 12950.1. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided

in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1) The district's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment
2. The types of conduct that constitute sexual harassment
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district's obligation to conduct an effective workplace investigation of a harassment complaint
10. What to do if the supervisor is personally accused of harassment
11. The essential elements of the district's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a copy of the district's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received.

12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, type of training, and name of the training provider. (2 CCR 11024)

Notifications

To prevent unlawful sexual harassment in district programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

In addition to the measures to prevent discrimination as specified in Administrative Regulation 4030 – Nondiscrimination in Employment, the Superintendent or designee shall ensure that a copy of the Board policy and this administrative regulation shall:

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)
3. 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)

All employees shall receive a copy of an information sheet prepared by the California Civil Rights Department (CRD) or the district that contains, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through CRD and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact CRD and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC

Additionally, the district shall post, in a prominent and accessible location, the CRD poster on discrimination in employment and the illegality of sexual harassment and the CRD poster regarding transgender rights. (Government Code 12950)

Complaint Procedures

All complaints and allegations of sexual harassment by and against employees 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 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 - Nondiscrimination in Employment.

If sexual harassment is found following an investigation, the Title IX Coordinator, or designee in

consultation with the Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, and address any continuing effects.

Regulation 4219.12: Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

Status: ADOPTED

Original Adopted Date: 04/13/2021 | Last Reviewed Date: 04/13/2021

Students

AR 4119.12/4219.12/4319.12

Personnel

AR 5145.71

Students

The district does not discriminate on the basis of sex in any of its programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106). The district is committed to maintaining an educational and workplace environment free from sexual harassment.

Title IX Sexual Harassment Prohibited

Sexual Harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited in district education programs or activities. Title IX Sexual Harassment is conduct on the basis of sex in an education program or activity that satisfies one or more of the following: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person'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
3. Sexual assault as defined in 20 U.S.C. §1092(f)(6)(A)(v)

For the purpose of this AR, the district defines "consent" as knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity.

Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time.

A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (1) the person is incapacitated due to the use or influence of alcohol or drugs; (2) the person is asleep or unconscious; (3) the person is under age; or (4) the person is incapacitated due to a mental disability.

The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.

4. Dating violence as defined in 34 U.S.C. §12291(a)(10)

5. Domestic violence as defined in 34 U.S.C. §12291(a)(8)

6. Stalking as defined in 34 U.S.C. §12291(a)(30).

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

(cf. 5145.7 - Sexual Harassment)

Term Definitions (34 C.F.R. §106.30)

The following Title IX definitions apply to the following terms used in this Administrative Regulation:

Complainant - an individual who is alleged to have been subject to conduct that could constitute Title IX Sexual Harassment at a time when the individual was participating in or attempting to participate in, a district education program or activity.

Education program or activity - locations, events, or circumstances where the district has substantial control over both respondent(s) and the context in which alleged Title IX Sexual Harassment occurred.

Formal Complaint - a document filed by a complainant (or a complainant's parent or guardian) or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent(s) and requesting that the district investigate the allegation.

Respondent - an individual who is alleged to have engaged in conduct that could constitute Title IX Sexual Harassment.

Supportive measures - non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to complainant(s) or respondent(s) before or after the filing of a formal complaint or where no formal complaint has been filed.

Title IX Sexual Harassment Complaints

The complaint procedures set forth in this Administrative Regulation will be used to address any report of Title IX Sexual Harassment in a district education program or activity to the extent required by Title IX.

Should the Title IX Regulations be modified or repealed, the district will implement only the aspects of these procedures required by law. If permitted by law, the district will address reports of sexual harassment, including Title IX Sexual Harassment, in accordance with AR 4030, Nondiscrimination in Employment, or AR 1312.3, Uniform Complaint Procedure, as applicable.

Non-Title IX Sexual Harassment Complaints

Reports of sexual harassment not covered by the definition of Title IX Sexual Harassment will be addressed in accordance with AR 4030, Nondiscrimination in Employment, or AR 1312.3, Uniform Complaint Procedure, as applicable. The determination of whether the allegations meet the definition of Title IX Sexual Harassment under Title IX will be made by the district's Title IX Coordinator.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 1312.3 - Uniform Complaint Procedure)

Reporting Title IX Sexual Harassment

Anyone who believes they have experienced, witnessed or received a report of Title IX Sexual Harassment is strongly encouraged to report the incident to the district's Title IX Coordinator, district administrator, or any district employee with whom the person is comfortable.

District employees receiving a report of or witnessing Title IX Sexual Harassment are required to report it to

the Title IX Coordinator. An employee who fails to promptly report or forward a report of Title IX Sexual Harassment to the Title IX Coordinator may be disciplined, up to and including dismissal.

Title IX Coordinator

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Processing Reports of Title IX Sexual Harassment

Upon receiving such a report, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, inform the complainant of the right to file a formal complaint and explain the process for filing a formal complaint. (34 CFR 106.44)

Supportive Measures

Upon receipt of a report of Title IX Sexual Harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures and will consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures will be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures will be non-disciplinary, non-punitive, and designed to restore or preserve equal access to the district's education program and activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to complainants and respondents. (34 CFR 106.30, 106.44)

The district will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

Administrative Leave

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Emergency Removal

A student may not be disciplined for alleged Title IX Sexual Harassment until the formal complaint process is completed and a determination of responsibility has been made. However, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

Formal Complaint

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email. (34 CFR 106.30)

Even if the complainant chooses not to file a formal complaint, the Title IX Coordinator may sign a formal complaint in situations when a safety threat exists and in other situations as permitted under Title IX, including as part of the district's obligation to not be deliberately indifferent to known allegations of Title IX Sexual Harassment. In such cases, the Title IX Coordinator is not a party to the formal complaint. The Title IX Coordinator will provide notices to the complainant as required by Title IX.

The district may consolidate formal complaints of Title IX Sexual Harassment against more than one respondent, or by more than one complainant, or by one party against another, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

Formal Complaint Process

The district treats complainants and respondents engaging in the formal complaint process equitably. Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of this formal complaint process. (34 CFR 106.45(b)(1)(iv)) The district complies with this formal complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent. (34 CFR 106.45(b)(1)(i))

Anyone designated by the district as a Title IX Coordinator, investigator, decisionmaker, appeal decisionmaker, or informal resolution facilitator will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and will receive training in accordance with 34 CFR 106.45. (34 CFR 106.45(b)(1)(iii))

Written Notice of Allegations

Upon receipt of a formal complaint, the Title IX Coordinator will provide the known parties with written notice of allegations including the following: (34 CFR 106.45(b)(2))

1. Notice of this formal complaint process, including any informal resolution process
2. The allegations potentially constituting Title IX Sexual Harassment with sufficient details known at the time, including the identities of parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident, if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX Sexual Harassment allegations arise about the complainant or respondent that are not included in this initial notice of allegations, the Title IX Coordinator will provide notice of the additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. Notice that the parties may have an advisor of their choice who may be, but is not required to be, an attorney.
5. Notice that the parties and their advisors, if any, will have an opportunity to inspect and review evidence
6. Advise the parties that the district's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the formal complaint process
7. When possible, the name of the investigator, and decisionmaker, and inform the parties that, if at any time a party has concerns regarding a conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

Dismissal of Formal Complaint

The Title IX Coordinator must dismiss a formal complaint if the alleged conduct: (1) would not constitute Title IX Sexual Harassment as defined in 34 CFR 106.30 even if proved, (2) did not occur in the district's education program or activity, or (3) did not occur against a person in the United States. Such conduct may still be address pursuant to other district Board policies and administrative regulations including, but not limited to, AR 4030 - Nondiscrimination in Employment, or BP/AR 1312.3, Uniform Complaint Procedure, as applicable.

At any time during the investigation, the Title IX Coordinator may dismiss a formal complaint of Title IX Sexual Harassment if: (1) the complainant notifies the district in writing that the complainant would like to withdraw the formal complaint or any allegations in the formal complaint, (2) the respondent is no longer enrolled or employed by the district, or (3) specific circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the formal complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties and inform them of their right to appeal the dismissal of a formal complaint or any allegation in the formal complaint in accordance with the appeal procedures described in the "Appeals" section below. (34 CFR 106.45)

Informal Resolution

After a formal complaint of Title IX Sexual Harassment is filed, but at any time before a determination regarding responsibility is reached, the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

Prior to facilitating an informal resolution process, the district will: (34 CFR 106.45(b)(9))

1. Provide the parties with written notice disclosing:
 1. the allegations;
 2. the requirements of the informal resolution process including the circumstances under which the parties are precluded from resuming the formal complaint process arising from the same allegations;
 3. the right of either party to withdraw from the informal resolution process and resume the formal complaint process at any time prior to agreeing to a resolution; and
 4. that the district's informal resolution process is confidential and any consequences resulting from participating in the informal resolution process, including the records of the informal resolution process that will be maintained or could be shared.
2. Obtain the parties' voluntary, written consent to the informal resolution process

Informal resolution is not available to resolve allegations of Title IX Sexual Harassment by a student against an employee.

Investigation Procedures

The burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rest on the district and not the parties.

Unless a party provides voluntary, written consent, the district cannot access, consider, disclose, or otherwise use a party's records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made and maintained in connection with the provision of treatment to the party. (34 CFR 106.45(b)(5)(i))

During the investigation process, the district's designated investigator will: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding. All party advisors are limited to providing support and may not be direct participants. This conduct expectation applies equally to complainants and respondents.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Prior to the completion of the investigative report, provide the parties, and their advisors, if any, an equal opportunity to inspect and review any evidence directly related to the allegations in the formal complaint including evidence the district does not intend to rely in reaching a determination, and provide the parties 10 calendar days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, 10 calendar days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

The district's investigator will not require, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless the person holding the privilege has waived the privilege. (34 CFR 106.45(b)(1)(x))

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with Title IX.

Written Determination

The Title IX Coordinator shall designate a decisionmaker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator, investigator or appeal decisionmaker on the formal complaint. (34 CFR 106.45(b)(7))

After the investigative report has been sent to the parties, but before reaching a determination of responsibility, the decisionmaker will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

The decisionmaker will notify the parties and witnesses of the following applicable timelines for the submission of questions and responses:

1. The parties have 5 calendar days to submit their questions to the decisionmaker after receiving

notice of the opportunity to submit questions from the decisionmaker.

2. After receipt of the questions, the parties and witnesses have 3 calendar days to submit their responses to the questions to decisionmaker.
3. When providing the questions and responses to both parties, the decisionmaker will explain to the party proposing the questions any decision to exclude a question as not relevant. Upon receipt of the responses to the questions, the parties will have 3 calendar days to submit limited follow-up questions.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45(b)(6)(ii)) The district's decisionmaker will not require, rely upon, allow, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless the person holding the privilege has waived the privilege. (34 CFR 106.45(b)(1)(x))

The written determination shall be issued within 120 calendar days of the receipt of the formal complaint. However, the time for completing the formal complaint process will be temporarily delayed during school recess periods exceeding three consecutive days. The timeline may be extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. Good cause may include, but is not limited to, absence of a party, witness, or party advisor; concurrent law enforcement activity; participation in the informal resolution process; or need for language assistance or disability accommodation. (34 CFR 106.45(b)(1)(v))

The decisionmaker shall issue, and simultaneously provide to both parties, a written determination as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45(b)(7)) In making this determination, the decisionmaker shall use the "preponderance of the evidence" standard for all formal complaints of Title IX Sexual Harassment. (34 CFR 106.45(b)(1)(vii)) The decisionmaker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness. (34 CFR 106.45(b)(1)(ii))

The written determination will include the following: (34 CFR 106.45(b)(7))

1. Identification of the allegations potentially constituting Title IX Sexual Harassment as defined in 34 CFR 106.30;
2. A description of the procedural steps taken from receipt of the formal complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the district's code of conduct or policies to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

Unless a party provides voluntary, written consent, the district cannot access, consider, disclose, or otherwise use a party's records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made and maintained in connection with the provision of treatment to the party. (34 CFR 106.45(b)(5)(i))

Appeals

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the formal complaint, if: (1) the party believes that a procedural irregularity affected the outcome, (2) new evidence, not reasonably available at the time of the determination, that could affect the outcome, or (3) a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decisionmaker(s) affected the outcome. An appeal must be filed in writing with the Title IX Coordinator within 10 calendar days of receiving the written determination or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

If an appeal is timely filed, the district shall: (34 CFR 106.45(8))

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the appeal decisionmaker is trained in accordance with 34 CFR 106.45 and is not the decisionmaker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties 10 calendar days to submit a written statement in support of or challenging the outcome
4. Issue a written decision describing the result of the appeal (e.g., affirms, reverses, remands, or amends the written determination regarding responsibility) and the rationale for the result within 20 calendar days from the deadline for the parties to submit their written statement in support of or challenging the outcome
5. Provide the written decision simultaneously to both parties within 5 business days of issuing the decision

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

Remedies

When a determination of responsibility for Title IX Sexual Harassment has been made against the respondent, the district shall provide remedies to the complainant. Remedies will be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. (34 CFR 106.45) The Title IX Coordinator is responsible for effective implementation of any remedies. (34 CFR 106.45(b)(7)(iv))

Sanctions/Disciplinary Actions/Corrective Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the formal complaint process has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the formal complaint process, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code

48900.2, 48915)

(cf. 5144 - Discipline)

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

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others
4. Positive behavior support
5. Referral of the student to a student success team
(cf. 6164.5 - Student Success Teams)
6. Behavior Review
7. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(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)

Recordkeeping

The Title IX Coordinator shall maintain records of the following for a period of seven years: (34 CFR 106.45(b)(10))

1. All reported allegations and Title IX Sexual Harassment investigations, any determinations of responsibility, any disciplinary sanctions imposed on respondent, and any remedies provided to the complainant designed to restore equal access to the District's education program or activity
2. Any appeal and the result
3. Any informal resolution and the results.
4. Any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, the district will document the basis for its conclusion that its response was not deliberately indifferent and the measures taken that were designed to restore or preserve equal access to the education program or activity. If no supportive measures were provided to the complainant, the district will document the reasons that such a response was not unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district from providing additional explanations or detailing additional measures in the future.

5. All materials used to train the Title IX Coordinator, investigator(s), decisionmaker(s), and informal resolution facilitators. The district shall make such training materials publicly available on its website.

Board Policy 5145.3 – Nondiscrimination/Harassment

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a district school, to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school, and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board desires to provide a welcoming, safe, and supportive school environment that allows all students equal access to and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying of any student by anyone, based on the student's actual or perceived race; color; ancestry; nationality; national origin; immigration status; ethnic group identification; ethnicity; age; religion; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; parental, marital, or family status; physical or mental disability; medical condition; sex, sexual orientation; gender; gender identity; gender expression; or genetic information; or, association with a person or group with one or more of these actual or perceived characteristics.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

Because unlawful discrimination could occur when disciplining students, including suspension and expulsion, the Superintendent or designee shall ensure that staff enforce discipline rules fairly, consistently and in a non-discriminatory manner, as specified in Board Policy and Administrative Regulation 5144 - Discipline, Board Policy and Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process, and Administrative Regulation 5144.2 - Suspension and Expulsion/Due Process (Students With Disabilities).

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates, participates, or refuses to participate in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the Superintendent or designee shall post the district's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the district's website in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation. (Education Code 234.1, 234.6)

The Superintendent or designee shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

When a student has been suspended, or other means of correction have been implemented against the student for an incident of racist bullying, harassment, or intimidation, the principal or designee shall engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee shall also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. (Education Code 48900.5)

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.

All allegations of unlawful discrimination in district programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures, when required by law. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

Administrative Regulation 5145.3 – Nondiscrimination/Harassment

The district designates the individual identified below as the Compliance Officer. The employee is responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws and to answer inquiries regarding the district's nondiscrimination policies. The individual shall also serve as the Compliance Officer specified in Administrative Regulation 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination of a student, and the Title IX Coordinator specified in Administrative Regulation 5145.7 – Sex Discrimination and Sex-Based Harassment as the responsible employee to handle complaints alleging unlawful sex discrimination and sexual harassment, as permitted by law. The Compliance Officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

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Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of students at district schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

1. Publicize the district's nondiscrimination policy and related complaint procedures, including the Compliance Officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through district-supported communications
2. Post the district's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.1, 234.6)
3. Post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)
4. Post in a prominent location on the district website in a manner that is easily accessible to parents/guardians and students information regarding Title IX prohibitions against discrimination based on a student's sex including the following: (Education Code 221.6, 221.61, 234.6)
 1. The name and contact information of the district's Title IX Coordinator, including the phone number and email address
 2. The rights of students and the public and the responsibilities of the district under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the websites of the Office

for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)

3. A description of how to file a complaint of noncompliance under Title IX, which shall include:
 1. An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations
 2. An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on the OCR's website
 3. A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office
4. A link to the Title IX information included on the California Department of Education's (CDE) website
5. By April 1, 2025, post CDE's standardized incident form to track racial discrimination, harassment, or hazing that occurs at high school sporting games or events, including information on how to submit a completed incident form to the district (Education Code 33353)
6. Post a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families. (Education Code 234.5)

Such resources shall be posted in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

7. Provide to students a handbook that contains age-appropriate information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior.
8. Annually notify all students and parents/guardians of the district's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students.

The notice shall inform students and parents/guardians that they may request to meet with the compliance officer to determine how best to accommodate or resolve concerns that may arise from the district's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the district will address any individual student's interests and concerns in private.

9. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the district's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning nondiscrimination shall be translated into that language in accordance with Education Code 234.1

and 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

10. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them.

Such training and information shall include details of guidelines the district may use to provide a discrimination-free environment for all district students.

11. Provide to certificated employees serving students in grades 7-8 information on existing school and community resources related to the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ+) students, or related to the support of students who may face bias or bullying on the basis of any of the actual or perceived characteristics in Penal Code 422.55, including immigration status; Education Code 220; and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation; or association with a person or group with one or more of these actual or perceived characteristics (Education Code 234.1)
12. For the 2025-2026 school year through the 2029-2030 school year, provide annually to certificated employees serving students in grades 7-8 at least one hour of training to support LGBTQ+ cultural competency in accordance with Education Code 218.3
13. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, against a student is required to intervene if it is safe to do so. (Education Code 234.1)
14. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights.

Process for Initiating and Responding to Complaints

Students who feel that they have been subjected to unlawful discrimination described above or in district policy are strongly encouraged to immediately contact the Compliance Officer, principal, or any other staff member. In addition, students who observe any such incident are strongly encouraged to report the incident to the compliance officer or principal, whether or not the alleged victim files a complaint.

Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the Compliance Officer, Title IX Coordinator, or Principal within one business day, whether or not the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the Compliance Officer, the Title IX Coordinator, or the principal,

they shall notify the student or parent/guardian of the right to file a formal complaint in accordance with AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Once notified verbally or in writing, the Compliance Officer or Title IX Coordinator shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging unlawful discrimination by the principal, compliance officer, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent or designee who shall determine how the complaint will be investigated.

Board Policy 5145.7 – Sex Discrimination and Sex-Based Harassment:

The Governing Board is committed to maintaining a welcoming, safe, and supportive learning environment that is free from discrimination and harassment on the basis of sex. The Board prohibits, at school or at school-sponsored or school-related activities, sex discrimination and sexual harassment targeted at any student, based on the student's actual or perceived sex; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and, parental, marital, and family status.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sexual harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1; 34 CFR 106.71)

The District strongly encourages any student who feels that they are being discriminated against or have experienced sex discrimination, including sexual harassment, on school grounds or at a school-sponsored or school-related activity, to immediately contact 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 sex discrimination, including sexual harassment, by or against a student in a District education program shall report the incident to the District Title IX Coordinator(s) designated in AR 1312.3, AR 5145.7, and AR 5145.71.

Once notified, the Title IX Coordinator(s) shall ensure the complaint or allegation is addressed through Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures or Administrative Regulation 1312.3 – Uniform Complaint Procedures, as applicable.

Instruction/Information

The Superintendent and District Title IX Compliance Officer shall ensure that students receive age-appropriate information related to sex discrimination and 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. That any and all students are encouraged to immediately 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. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements of a uniform complaint, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students;

6. Information about the District's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made;
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 is ongoing; and
8. A clear message that, when needed, the District will take interim 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 and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment.

The Superintendent or designee shall inform students and parents/guardians of the District's sexual harassment policy by displaying it in prominent locations on District school sites and websites, providing copies to District students and staff, and including it in District publications. (Education Code 231.5)

The District Title IX Compliance Officer shall receive training and shall oversee appropriate sexual harassment trainings for District staff, including management as well as certificated and non-certificated staff. Each Site Designated Title IX Administrator shall receive initial and ongoing training, as appropriate, to carry out their duties. (Government Code 12950.1)

Disciplinary Actions

Upon investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy, shall be subject to appropriate disciplinary and/or other corrective action or interventions. For students in grades 4 through 8, the 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. The Superintendent or designee shall immediately suspend and recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery. (Education Code 48900.2, 48915)

Upon investigation of a sexual harassment complaint, any employee who engages in, permits or fails to report sexual harassment or sexual violence toward any student shall be subject to appropriate disciplinary action up to and including dismissal in accordance with law and the applicable collective bargaining agreement. District personnel shall take immediate steps to intervene when safe to do so when she or he witnesses an act of discrimination, harassment, intimidation, retaliation, or bullying. In addition, criminal or civil charges may be brought against the alleged harasser; sexual harassment also may be considered a violation of laws relating to child abuse.

Record-Keeping

The District's Title IX Compliance Officer 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 in accordance with 34 CFR 106.45(b)(10) as specified in Administrative Regulation 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Administrative Regulation 5145.7 – Sex Discrimination and Sex-Based Harassment

The District does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972, its implementing regulations, and applicable state law. Sex discrimination, including sexual harassment, is prohibited in District education programs and activities.

Title IX Coordinator/Compliance Officer:

The District designates the following individual as the responsible employee to coordinate its efforts to comply with Title IX. The individual(s) shall also serve as Title IX Coordinator/Compliance Officer in accordance with AR 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, as well as to oversee, investigate, and/or resolve sexual harassment complaints processed under Administrative Regulation 1312.3 - Uniform Complaint Procedures. The Title IX Coordinator may be contacted at:

Shay Galletti
Principal/Superintendent
11601 Main Street,
Sunol, CA 94586
(925) 862-2026 Ext. 109
sgalletti@sunol.k12.ca.us

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)

Definitions

The Superintendent through the District Title IX Compliance Officer shall take appropriate actions to reinforce the District's non-discrimination and sexual harassment policies.

Sex discrimination includes treating a student differently with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services based on the student's sex; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or the student's association with a person or group with one or more of these actual or perceived characteristics.

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other 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 an individual's academic status or progress.
2. Submission to, or rejection, of the conduct by the individual is used as the basis for academic decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact on the individual's academic

performance, or of creating an intimidating, hostile, or offensive educational environment.

4. Submission to, or rejection, of the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the District.

Under Title IX of the Education Amendments of 1972 , the following conduct constitutes sexual harassment: (34 CFR 106.3)

1. Quid Pro Quo Harassment: A District employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
2. Hostile Environment Harassment: Unwelcome sexual 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” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Examples of Sexual Harassment

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 verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures or 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 or gender identity or expression
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, sexual violence, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Reports and Complaints

A student or a student's parent(s)/guardian(s) who believes that the student has been subjected to sex discrimination or sexual harassment by another student, an employee, or a third party, in a District program or activity, or who has witnessed sexual harassment, is strongly encouraged to report the incident to the District's Title IX Coordinator(s), a teacher, the principal, or any other available school employee. Within one school day, the principal or other school employee shall forward the report to the District's Title IX Coordinator(s).

Any school employee who observes an incident of sex discrimination or sexual harassment involving a student shall, within one school day, report the observation to the principal or Title IX Coordinator(s) listed above. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.

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

Complaint Procedures

All complaints of sexual harassment by and against students shall be investigated and resolved in accordance with the 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 Sex Discrimination and Sex-Based Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 1312.3 - Uniform Complaint Procedures.

Notifications

To prevent unlawful sexual harassment in District programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 5145.3 – Nondiscrimination/Harassment.

In addition to the measures to prevent discrimination specified in Administrative Regulation 5145.3 – Nondiscrimination/Harassment, the Superintendent or designee shall ensure that a copy of the District's sexual harassment policy and regulation:

1. Is included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980)
2. Is 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. Is provided as part of any orientation program conducted for new and continuing students at the time the student is enrolled or at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Is provided to all District employees at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired (Education Code 231.5)

5. Appears 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)

The District shall also post in a prominent and conspicuous location on its websites all of the following: (Education Code 221.6, 222.61)

1. The name and contact information of the Title IX coordinator for that public school, school district, county office of education, which shall include the Title IX coordinator's phone number and email address
2. The rights of a pupil and the public and the responsibilities of the school under Title IX, which shall include, but shall not be limited to, Internet Web links to information about those rights and responsibilities
3. A description of how to file a complaint under Title IX, which shall include all of the following:
 1. An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred, and how a complaint may be filed beyond the statute of limitations
 2. An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including, but not limited to, Internet Web links to this information on the United States Department of Education Office for Civil Rights' Internet Web site
 3. An Internet Web link to the United States Department of Education Office for Civil Rights complaints form, and the contact information for the office, which shall include the phone number and email address for the office

Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming Students

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, regardless of whether that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth. (Education Code 210.7)

Gender transition refers to the process in which a student changes from living and identifying as the sex assigned to the student at birth to living and identifying as the sex that corresponds to the student's gender identity.

Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.

Intersex student means a student with natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and male bodies.

Nonbinary student means a student whose gender identity falls outside of the traditional conception of strictly either female or male, regardless of whether the student identifies as transgender, was born with intersex traits, uses gender-neutral pronouns, or uses agender, genderqueer, pangender, gender nonconforming, gender variant, or such other more specific term to describe their gender.

Transgender student means a student whose gender identity is different from the gender assigned at birth.

The District prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, sexual orientation, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature. Examples of the types of conduct that are prohibited in the District and which may constitute sex-based hostile environment harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with the student's gender identity
2. Disciplining or disparaging a student or excluding the student from participating in activities, for behavior or appearance that is consistent with the student's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable
3. Blocking a student's entry to the restroom that corresponds to the student's gender identity
4. Taunting a student because the student participates in an athletic activity more typically favored by a student of the other sex
5. Revealing a student's gender identity to individuals who do not have a legitimate need for the information, without the student's consent
6. Using gender-specific slurs
7. Assaulting a student because of the student's gender, sex characteristic, sexual orientation, gender identity, or gender expression

To ensure that intersex, nonbinary, transgender, and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the District shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. Right to privacy: A student's intersex, nonbinary, transgender, or gender-nonconforming status is the student's private information.

The District shall develop strategies to prevent unauthorized disclosure of students' private information. Such strategies may include, but are not limited to, collecting or maintaining information about student gender only when relevant to the educational program or activity, protecting or revealing a student's gender identity as necessary to protect the health or safety of the student, and keeping a student's unofficial record separate from the official record.

The District shall only disclose the information to others with the student's prior written consent, except when the disclosure is otherwise required by law or when the District has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. (Education Code 220.3, 220.5; 34 CFR 99.31, 99.36)

The District shall only allow disclosure of a student's personally identifiable information to employees in accordance with law. Any District employee to whom a student's intersex, nonbinary, transgender, or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to a District employee by a student, the employee shall seek the student's permission to notify the Compliance Officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless the employee is required to disclose or report the student's information pursuant to this administrative regulation, and shall inform the student that honoring the student's request may limit the District's ability to meet the student's needs related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming student. If the student permits the employee to notify the Compliance Officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the Compliance Officer may discuss with the student any need to disclose the student's intersex, nonbinary, transgender, or gender-nonconformity status or gender identity or gender expression to the student's parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The District shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and request assistance in doing so.

2. **Determining a Student's Gender Identity:** The Compliance Officer shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless District personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose.
3. **Addressing a Student's Transition Needs:** The Compliance Officer shall arrange a meeting with the student and, if appropriate, the student's parents/guardians to identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained.

The meeting shall discuss the intersex, nonbinary, transgender, or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the Compliance Officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as an intersex, nonbinary, transgender, or gender nonconforming individual, so that prompt action can be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the arrangements for the student are meeting the student's educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.

4. **Accessibility to Sex-Segregated Facilities, Programs, and Activities:** When the District maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity

To address any student's privacy concerns in using sex-segregated facilities, the District shall offer available options such as a gender-neutral or single-use restroom or changing area, a bathroom

stall with a door, an area in the locker room separated by a curtain or screen, or use of the locker room before or after the other students. However, the District shall not require a student to utilize these options because the student is intersex, nonbinary, transgender, or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with the student's gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

Beginning July 1, 2026, each school shall provide and maintain at least one all-gender restroom for student use that meets the requirements of Education Code 35292.5.

5. Student Records: Upon each student's enrollment, the District is required to maintain a mandatory permanent student record (official record) that includes the student's gender and legal name.

A student's legal name as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed with proper documentation. A student's gender as entered on the student's official record required pursuant to 5 CCR 432 shall only be changed with written authorization of a parent/guardian having legal custody of the student. (Education Code 49061)

However, when proper documentation or authorization, as applicable, is not submitted with a request to change a student's legal name or gender, any change to the student's record shall be limited to the student's unofficial records such as attendance sheets, report cards, and school identification.

6. Names and Pronouns: If a student so chooses, District personnel shall be required to address the student by a name and the pronoun(s) consistent with the student's gender identity, without the necessity of a court order or a change to the student's official district record.

However, inadvertent slips or honest mistakes by District personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this administrative regulation or the accompanying board policy.

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with the student's gender identity, subject to any dress code adopted on a school site.

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