

# Palm Springs USD

## Board Policy

BP 5145.7, Students

### SEXUAL HARASSMENT

The Board of Education is committed to maintaining an educational environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

The Board strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at school-sponsored or school-related activities or who has experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact his/her teacher, the principal, or any other available school employee.

The Board is committed to complying with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §1681 *et seq.* and its implementing regulations, which prohibit discrimination on the basis of sex in education programs or activities operated by federal financial assistance recipients. Sexual harassment, including sexual violence, is a form of sex discrimination prohibited by Title IX.

The Board hereby designates the following person(s) (“Coordinator”) as the responsible employee(s) to handle complaints regarding sexual harassment and to coordinate its compliance with Title IX and California Education Code section 234.1. The Coordinator may be contacted at:

Assistant Superintendent of Educational Services and/or designee

Palm Springs Unified School District

150 District Center Drive

Palm Springs, CA 92264

760-883-2700

Instruction/Information

The Coordinator or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same gender
2. A clear message that students do not have to endure sexual harassment

3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained

4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved

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

6. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable

7. 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.

(cf. 5131.5 - Vandalism, and Graffiti)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

#### Complaint Process

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within one school day of receiving the complaint, report it to the principal or the Coordinator.

Any school employee who observes any incident of sexual harassment involving a student shall take immediate steps to intervene when safe to do so and report this observation to the Coordinator, whether or not the victim files a complaint.

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

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

(cf. 1312.1 - Complaints Concerning District Employees)

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)

Regardless of whether the student files a complaint, the Coordinator or designee shall contact the student (or parent, depending on the student's age) and explain that the district is responsible for investigating the allegation of sexual harassment and taking corrective action, and explain the informal and formal procedures for filing a complaint, including how the procedures work.

Upon receiving the complaint, the Coordinator or designee shall immediately initiate the complaint investigation procedures in accordance with AR 1312.3 – Uniform Complaint Procedures. Where the Coordinator or designee finds that sexual harassment occurred, he/she shall take prompt, appropriate, effective action to end the harassment and address its effects on the victim. The Coordinator or designee shall also advise the victim of any other remedies that may be available and take steps to prevent further harassment. The Coordinator or designee shall file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where required.

(cf. 1312.1 - Complaints Concerning District Employees)

#### Disciplinary Measures

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

(cf. 5144 - Discipline)

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

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

#### Response Pending Investigation

When an incident of sexual harassment is reported, the principal or designee, in consultation with the Coordinator, shall determine whether interim measures are necessary pending the results of the investigation. Such measures shall be those necessary to stop the harassment, if still ongoing, and 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. To the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment

#### Record-Keeping

The Coordinator or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in its schools.

(cf. 3580 - District Records)

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964) The Coordinator or designee will discuss confidentiality standards with the student when the complaint is initiated.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

12950.1 Sexual harassment training

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX, Discrimination

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.71 Nondiscrimination on the basis of sex in education programs

#### COURT DECISIONS

*Donovan v. Poway Unified School District*, (2008) 167 Cal.App.4th 567

*Flores v. Morgan Hill Unified School District*, (2003, 9th Cir.) 324 F.3d 1130

*Reese v. Jefferson School District*, (2001) 208 F.3d 736

*Davis v. Monroe County Board of Education*, (1999) 526 U.S. 629

*Gebser v. Lago Vista Independent School District*, (1998) 524 U.S. 274

*Oona by Kate S. v. McCaffrey*, (1998, 9th Cir.) 143 F.3d 473

*Doe v. Petaluma City School District*, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:

#### CALIFORNIA SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

#### U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Q&A on Campus Sexual Misconduct, September 2017

Dear Colleague Letter: Transgender Students, May 2016

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, January 2001

Protecting Students from Harassment and Hate Crime: A Guide for Schools, January 1999

Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, March 1997

#### WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

OCR: <http://www.ed.gov/about/offices/list/ocr>

Policy PALM SPRINGS UNIFIED SCHOOL DISTRICT

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