

Book	BCSD Board Policies
Section	0600 Students
Title	SEXUAL HARASSMENT OF OR BY STUDENTS
Code	0601.06
Status	Active
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Last Revised	January 26, 2021

The Governing Board is committed to maintaining a safe, healthy, and secure school environment that is free from harassment and discrimination. The Board prohibits, at school or at school-sponsored or school-related activities, sexual harassment targeted at any student by anyone. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

The Board considers sexual harassment to be a major offense. Under no circumstances will sexual harassment be tolerated. Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

The District strongly encourages any student who feels that they are being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who has experienced off-campus sexual harassment that has a continuing effect on campus, 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 sexual harassment shall notify the Title IX Coordinator.

(cf. BB 100.12 – Values, Vision, Mission, and Superintendent Priorities)
(cf. BP 300.13 – Complaints Concerning District Employees)
(cf. BP 300.63 – Nondiscrimination in District Programs and Activities)
(cf. BP 400.56 – Comprehensive Health Education)
(cf. BP 500.38 – Sexual Harassment)
(cf. BP 600.04 – Positive School Climate)
(cf. BP 601.01 – Conduct of Pupils)
(cf. BP 601.02 – Bullying)
(cf. BP 601.14 – Nondiscrimination/Harassment)
(cf. BP 603.07 – Child Abuse and Neglect Reporting Procedures)
(cf. BP 605.03 – Uniform Complaint Procedures)

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Administrative Regulation 606.15 - Title IX Sexual Harassment Complaint Procedures or Board Policy and Administrative Regulation 605.03 - Uniform Complaint Procedures, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of Administrative Regulation 606.15 - Title IX Sexual Harassment Complaint Procedures concurrently meets the requirements of Board Policy and Administrative Regulation 605.03 - Uniform Complaint Procedures.

(cf. AR 606.15 – Title IX Sexual Harassment Complaint Procedures)

The Title IX Coordinator shall offer supportive measures to the complainant and respondent, as deemed appropriate under the circumstances.

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

Instruction/Information

The Superintendent or designee shall ensure that all District students receive age-appropriate 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 sex and could involve sexual violence.
2. A clear message that students do not have to endure sexual harassment under any circumstance.
3. Encouragement to report observed 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 receive, investigated, or resolved.
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and 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 continues.
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.

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 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. BP 601.04 – Suspension and Expulsion/Due Process)
(cf. BP 601.07 – Discipline)
(cf. BP 606.06 – Suspension and Expulsion/Due Process [Students with Disabilities])

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall have his/her employment terminated in accordance with applicable law, and the applicable collective bargaining agreement.

(cf. BP 500.38 – Sexual Harassment)

Confidentiality and Record-Keeping

In accordance with law and District policies and regulations, the Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the District to monitor, address, and prevent repetitive harassing behavior in its schools.

(cf. BP 300.11 – 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 (Title 5, California Code of Regulations, Section 4964).

(cf. BP 300.49 – Unauthorized Release of Confidential/Privileged Information)

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
48985 Notices, report, statements and records in primary language

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

4600-4670 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 20

1092 Definition of sexual assault

1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688.1 Title IX, Discrimination

UNITED STATES CODE, TITLE 34

12291 Definition of dating violence, domestic violence, and stalking

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy
106.1-106.71 Nondiscrimination on the basis of sex in education programs

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AR 601.06 Sexual Harassment of or by Students

Administrative Regulations

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 Administrative Regulation 606.15, Title IX Sexual Harassment Complaint Procedures, as well as to oversee, investigate, and/or resolve sexual harassment complaints processed under Administrative Regulation 605.03, Uniform Complaint Procedures. The Title IX Coordinator may be contacted at:

Director I, Human Resources
1300 Baker Street
Bakersfield, CA 93305
661-631-4663
johnstone@bcsd.com

(cf. AR 500.57 - Title IX Sexual Harassment Complaint Procedures)

Definitions

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions (Education Code Section 212.5; Title 5, California Code of Regulations, Section 4916):

1. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile, or offensive educational environment.
2. Submission to, or rejection of, the conduct by a student is used as the basis for academic decisions affecting the student.
3. Submission to the conduct is explicitly or implicitly made a term or a condition of student's academic status, or progress.
4. Submission to, or rejection of, the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any District program or activity.

(cf. BP 600.04 – Positive School Climate)

(cf. BP 601.01 – Conduct of Pupils)

(cf. BP 601.02 – Bullying)

(cf. BP 601.14 – Nondiscrimination/Harassment)

(cf. BP 605.03 - Uniform Complaint Procedures)

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

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education

program or activity in which a District school exercises substantial control over the context and respondent (Title 34, Code of Federal Regulations, Sections 106.30 & 106.44):

1. A District employee conditioning the provision of a District aid, benefit, or service on the student'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 student equal access to the District's education program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking as defined in Title 20, United States Code, Section 1092 or Title 34, United States Code, Section 12291.

(cf. AR 606.15 – Title IX Sexual Harassment Complaint Procedures)

Examples of Sexual Harassment

Examples of types of conduct which are prohibited in the District and which may constitute sexual harassment under state and/or federal law, in accordance with the definitions above, include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions;
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions;
3. Graphic verbal comments about an individual's body or overly personal conversation;
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature;
5. Spreading sexual rumors;
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class;
7. Massaging, grabbing, fondling, stroking, or brushing the body;
8. Touching an individual's body or clothes in a sexual way;
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex;
10. Displaying sexually suggestive objects;
11. Sexual assault, sexual battery, or sexual coercion;
12. Electronic communications containing comments, words, or images described above.

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

Notifications

The Superintendent or designee shall notify students and parents/guardians that the District does not discriminate on the basis of sex as required by Title IX and that inquiries about the application of Title IX to the District may be referred to the District's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education (Title 34, Code of Federal Regulations, Section 106.8).

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 (Title 34, Code of Federal Regulations Section 106.8).

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

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code Section 48980; Title 5, California Code of Regulations, Section 4917).
2. Be displayed in a prominent location in the main administrative building or other area where notices of District rules, regulations, procedures, and standards of conduct are posted (Education Code Section 231.5).
3. Be posted in a prominent location on the District's web site in a manner that is easily accessible to parents/guardians and students. The posting shall include the name or title, office address, email address, and telephone number of the employee(s) designated as the District's Title IX Coordinator (Education Code Section 234.6; Title 34, Code of Federal Regulations, Section 106.8).

(cf. BP 300.68 - Social Media)

(cf. BP 500.50 - District and School Web Sites)

4. Appear in any school or District publication that sets forth the school's or District's comprehensive rules, regulations, procedures and standards of conduct (Education Code Section 231.5).
5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session (Education Code Section 231.5).
6. Be included in any handbook provided to students, parents/guardians, employees, or employee organizations (Title 34, Code of Federal Regulations, Section 106.8)

The Superintendent or designee shall also post the definition of sex discrimination and harassment as described in Education Code Section 230, including the rights set forth in Education Code Section 221.8, in a prominent location on the District's web site in a manner that is easily accessible to parents/guardians and students (Education Code Section 234.6).

Reporting Complaints

Any student or parent/guardian who believes that the student has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to a teacher, the principal, the District's Title IX Coordinator, or any other available school employee. Within one school day of receiving such a report, the principal or other school employee shall forward the report to the District's Title IX Coordinator identified above. In addition, any school employee who observes an incident of sexual harassment involving a student shall,

within one school day, report the observation to the principal or Title IX Coordinator, regardless of whether or not the alleged victim files a formal complaint or requests confidentiality.

(cf. BP 603.07 – Child Abuse and Neglect Prevention and Reporting)

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

When a verbal or informal report of sexual harassment is submitted, the 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 and allegations of sexual harassment by and against students shall be investigated and resolved in accordance with law and District procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with Administrative Regulation 606.15- Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to Administrative Regulation 605.03 - Uniform Complaint Procedures.

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, implement remedies, and address any continuing effects.

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