Atascadero USD
Board Policy
Sexual Harassment

BP 5145.7
Students

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

The district strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult to immediately contact his/her teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district compliance officer.

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

Complaints regarding sexual harassment shall be investigated and resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment 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

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 criminal complaint, as applicable

Complaint Process

Any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity (e.g., by a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

The Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Superintendent or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

Disciplinary Actions

Any student who engages in the sexual harassment or sexual violence at school or at a school-sponsored or a school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4 through 12, 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.

(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
Any staff member found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/or collective bargaining agreements.

Confidentiality and Record-Keeping

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 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 the schools.

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
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
Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:
CSBA PUBLICATIONS
Providing a Safe, Nondiscriminatory School Environment for Transgender and
Gender-Nonconforming Students, Policy Brief, February 2014
Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Questions and Answers on Title IX and Sexual Violence, April 2014
Dear Colleague Letter: Sexual Violence, April 4, 2011
Sexual Harassment: It's Not Academic, September 2008
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other
Students, or Third Parties, January 2001
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

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