

**SEXUAL HARASSMENT**

It shall be the policy of the district to provide an educational, employment and work environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment as defined and otherwise prohibited by state and Federal statutes. Sexual harassment is unlawful and is prohibited between students, between employees and students, between supervisors and employees, between employees, and between non-employees and employees. The district will not tolerate any conduct which is considered harassing, coercive or offensive, including sexual harassment. Violation of this policy by any student will result in disciplinary action up to and including expulsion.

The Board of Education expects students and/or staff to immediately report incidents of sexual harassment involving students to the principal or designee or Assistant Superintendent of Student Services. Teachers or appropriate designee shall discuss this policy with their students in age-appropriate ways and should assure them that they need not endure any form of sexual harassment.

Any student who engages in the sexual harassment of anyone in or from the district may be subject to disciplinary action up to and including expulsion.

**Definitions to be used for purposes of this policy:**

1. Sexual advances, (either verbal or physical), requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
  - a. Submission to such conduct is either an explicit or implicit term or condition of employment or educational experience
  - b. Submission to or rejection of the conduct is used as a basis for making employment or education decisions
  - c. Such conduct has the purpose or effect of substantially interfering with an individual's educational or work performance, or creating an intimidating, hostile or offensive employment or education environment
2. Other types of conduct which are prohibited in the district and which may constitute sexual harassment include:
  - a. Unwelcome leering, sexual flirtations or propositions
  - b. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
  - c. Graphic verbal comments about an individual's body, or overly personal conversation

**SEXUAL HARASSMENT** (continued)

- d. Sexual jokes, stories, drawings, pictures or gestures
  - e. Spreading sexual rumors
  - f. Teasing or sexual remarks about students enrolled in a predominately single-sex class.
  - g. Touching an individual's body or clothes in a sexual way
  - h. Purposefully limiting a student's access to educational tools
  - i. Cornering or blocking of normal movements
  - j. Displaying sexually suggestive objects in the educational environment
  - k. Any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.
3. Sexual harassment is an unlawful practice in violation of Education Code 212.5.
4. Sexual harassment is a form of misconduct which undermines the integrity of the employment or student/educator relationship. No individual, either female or male, should be subjected to sexual overtones or conduct, either verbal or physical. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior which is not welcome, which is personally offensive, which debilitates morale, and which therefore interferes with educational and work effectiveness. Such harassment may include, but is not limited to:
- a. Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, touching, impending or blocking movement, leering, gestures, display of sexually suggestive objects or pictures, or cartoons, or continued expression of sexual interest after being informed that the interest is unwelcome
  - b. Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response. This may include, but is not limited to, either implying or actually withholding support for an appointment or change of assignment; suggestion of a poor performance report or failed probation; either implying or actually withholding grades or credits earned or deserved; suggestion of a poor performance evaluation or denial of a scholarship recommendation or college application

**SEXUAL HARASSMENT** (continued)

- c. Engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the educational opportunities, grades, credits, and/or learning environment of students
- d. Offering favors for educational benefits in exchange for sexual favors. This may include but is not limited to grades, credits, or promotions; favorable performance evaluations, assignments; or recommendations

**Communication of Policy with Students, Parents and Staff**

1. The Superintendent of Schools will develop communiqués which will:
  - a. Describe in detail the various behaviors that constitute sexual harassment
  - b. Include a statement that forcefully declares that sexual harassment is prohibited by policy, state and federal law
  - c. Promise confidentiality and protection from retaliation for complainants and witnesses
  - d. Assure appropriate and immediate measures will be taken to discipline offenders
  - e. Assure that any harm resulting from harassment will be redressed
2. Notice of this policy shall appear in the schedule of classes, the catalog and appropriate publications such as the annual notification, faculty handbooks, student handbooks, etc.

**Actions Resulting From Violation of Policy**

Students who act in violation of the sexual harassment policy and administrative regulations may be subject to disciplinary action up to and including expulsion. Such disciplinary action shall be in accordance with applicable policies and laws, and follow the procedure outlined in administrative regulation 5145.7.

**Confidentiality**

Any person initiating a sexual harassment complaint, and other parties involved in the complaint, have a right to confidentiality. If the complaining party so desires, the investigation may be conducted in such a way that the person's identity will not be disclosed. When confidentiality cannot be assured, the complaining party will be apprised of this fact before

**SEXUAL HARASSMENT (continued)**

additional proceedings commence. Maintaining confidentiality may serve to make the investigation and/or resolution difficult or impossible and should be carefully considered before complete confidentiality is requested.

*Legal Reference:*

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*  
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*

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, Discrimination*

UNITED STATES CODE, TITLE 42

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

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

COURT DECISIONS

*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) 118 S.Ct. 1989  
*Nabozny v. Podlesny*, (1996, 7th Cir.) 92 F.3d 446  
*Doe v. Petaluma City School District*, (1995, 9th Cir.) 54 F.3d 1447  
*Oona R.-S. etc. v. Santa Rosa City Schools et al*, (1995) 890 F.Supp. 1452  
*Rosa H. v. San Elizario Ind. School District*, (W.D. Tex. 1995) 887 F. Supp. 140, 143  
*Clyde K. v. Puyallup School District #3*, (1994) 35 F.3d 1396  
*Patricia H. v. Berkeley Unified School District*, (1993) 830 F.Supp. 1288  
*Franklin v. Gwinnet County Schools*, (1992) 112 S. Ct. 1028  
*Kelson v. City of Springfield, Oregon*, (1985, 9th Cir.) 767 F.2d 651

*Management Resources:*

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL  
*Protecting Students from Harassment and Hate Crime: A Guide for Schools*, January 1999

OFFICE OF CIVIL RIGHTS' PUBLICATIONS

*Revised Sexual Harassment Guidance*, January 2001

*Sexual Harassment Guidance*, March 1997

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

Policy  
adopted: September 6, 1994  
revised: October 1, 2007

**CLAREMONT UNIFIED SCHOOL DISTRICT**  
Claremont, California

**SEXUAL HARASSMENT**

**Complaint Procedures**

These complaint procedures are specifically for actions that may constitute sexual harassment.

A complaint and the results of the investigation shall be confidential to the extent reasonably possible under the investigation process. Witnesses and those interviewed shall be informed of the confidential nature of the issues and the investigation and shall be informed that it will be a violation of policy to disclose the complaint or the nature of the investigation to others not involved in the investigation.

The initiation of a complaint of sexual harassment will not cause any reflection on the complainant or witnesses nor will it affect such as student's grades, credits, or status in class.

This administrative regulation will use the sexual harassment definitions as outlined in the policy 5145.7.

**Informal Resolution**

When the student who complained and the person accused of harassment so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided.

The principal or designee shall tell the student who complained that he/she has the right to file a formal complaint at any time in accordance with the district's uniform complaint procedures. If the student wishes to file a formal complaint, the principal or designee shall assist the student in doing this.

**Formal Complaints Brought By Students and or Parents**

If an aggrieved student is unable to communicate directly with the person whose conduct is offensive or if direct communication has been unavailing, the aggrieved student may file a formal complaint with the principal or designee.

Employees serving in supervisory or managerial positions who receive complaints or observe harassing conduct shall inform the Assistant Superintendent of Personnel Services who will inform the Superintendent. The process will follow the Uniform Complaint Procedure Policy and Administrative Regulation 1141.

**General Provisions for Filing a Complaint**

A complaint shall be filed as soon as reasonably possible after the alleged sexual harassment/incident has occurred.

**SEXUAL HARASSMENT** (continued)

Complaint should be in writing and shall be filed with the principal/site supervisor or designee. Any complaint received, whether in writing or not, shall be investigated.

The principal/supervisor or designee shall review the complaint and, as soon as reasonably possible after receipt of the complaint, the employee or other person accused of sexual harassment shall be informed of the nature of the complaint while being mindful of confidentiality as described in this administrative regulation.

The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation the principal or designee also may discuss the complaint with the following persons:

1. The Superintendent or designee
2. The parent/guardian of the student who complained
3. The parent/guardian of the person accused of harassing someone
4. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth.
5. Anyone who witnessed the conduct complained of.
6. Anyone mentioned as having related information.

In reaching a decision about the complaint, the principal or designee may take into account:

1. Statements made by the persons identified above
2. The details and consistency of each person's account
3. Evidence of how the complaining student reacted to the incident
4. Evidence of past instances of harassment by the accused person
5. Evidence of past harassment complaints that were found to be untrue

To judge the severity of the harassment, the principal or designee may take into consideration:

1. How the misconduct affected one or more students' education
2. The type, frequency and duration of the misconduct
3. The number of persons involved.
4. The age and sex of the person accused of harassment

**SEXUAL HARASSMENT** (continued)

5. The subject(s) of harassment
6. The place and situation where the incident occurred
7. Other incidents at the school, including incidents of harassment that were not related to sex

**Appealing Decisions**

All decisions made under the uniform complaint procedure may be appealed by the aggrieved person or the accused person to the superintendent or designee.

**Continued Harassment Actions**

Subsequent harassment actions will be subject to disciplinary action under Education Code 48900.2, which provides for suspension and possible recommendation for expulsion. Students who have alleged harassment will be protected.

At the conclusion of the investigation of the complaint, the principal/site supervisor or designee will report the results of the investigation to the complainant and the person accused of sexual harassment, within 20 days.

The principal or designee shall give the Superintendent or designee a written report of the complaint and investigation within 30 days. If he/she verifies that sexual harassment occurred, this report shall describe the actions he/she took to end the harassment, address the effects of the harassment on the person harassed, and prevent retaliation or further harassment. The Assistant Superintendent of Student Services shall keep a record of each incident and its disposition.

The principal or designee shall determine whether or not the student who complained is being further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up at his/her discretion.

**Confidentiality**

Any person initiating a sexual harassment complaint, and other parties involved in the complaint, have a right to confidentiality. If the complaining party so desires the investigation may be conducted in such a way that the person's identity will not be disclosed. When confidentiality cannot be assured, the complaining party will be apprised of this fact before additional proceedings commence. Maintaining confidentiality may serve to make the investigation and/or resolution difficult or impossible and should be carefully considered before complete confidentiality is requested.

**SEXUAL HARASSMENT** (continued)

**Enforcement**

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

1. Removing vulgar or offending graffiti
2. Providing staff inservice and student instruction or counseling
3. Notifying parents/guardians
4. Notifying child protective services and law enforcement
5. Taking appropriate disciplinary action, up to and including expulsion.
6. The principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

The complainant may seek help from agencies such as legal assistance agencies, local mediation centers, or the county office of education. Local resources includes:

Legal Aid Society  
Dispute Resolution Center