

SEXUAL HARASSMENT

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 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the students
3. 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
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. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

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

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 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: (34 CFR 106.30, 106.44)

1. A District employee conditioning the provision of a District aid, benefit, or service on the student's participation in sexual misconduct

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2. 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 20 USC 1092 or 34 USC 12291

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 conversations
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

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12. Electronic communications containing comments, words, or images described above

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 5145.71 - Title IX sexual harassment complaint procedures, as well as to oversee, investigate, and/or resolve sexual harassment complaints processed under AR 1312.3 - Uniform Complaint Procedures. The Title IX Coordinator(s) may be contacted at:

Investigation of Complaints of School Employees or Other Adults toward Students

Complaints of sexual harassment, harassment, discrimination according to Board Policy by school employees toward students shall be investigated according to Administrative Regulation 4031 and referred to the Coordinator of Nondiscrimination and Employment:

Assistant Superintendent, Human Resources
5130 Riverside Drive, Chino, CA
(909) 628-1201 ext. 1110

Investigation of Complaints of Students towards Other Students

The Board of Education designates the following position as Coordinator for Nondiscrimination Regarding Student-On-Student Complaints:

Coordinator of Equity, Diversity, and Support Systems
2730 South Bon View Avenue, Ontario, CA, 91761
(909) 628-1201 ext. 6745

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Site-Level Grievance Procedure

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 AR 5145.71 - Title IX sexual harassment complaint procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to BP/AR 1312.3 - 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.

1. A 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. 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. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.

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.

2. **Initiation of Investigation:** The principal or District Coordinator for Title IX shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a

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formal complaint has been filed. The District shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the principal or District coordinator for Title IX receives an anonymous complaint or media report about alleged sexual harassment, it shall be determined whether it is reasonable to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

3. Initial Interview with Student: When a student or parent/guardian has complained or provided information about sexual harassment, the principal or district coordinator for Title IX shall describe the District's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and/or put the complaint in writing. If the student requests confidentiality, the student shall be informed that such a request may limit the District's ability to investigate.
4. Investigation Process: The principal or District coordinator for Title IX shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The principal or District coordinator for Title IX shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The principal or District coordinator for Title IX may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out the investigation or to protect student safety, the principal or District coordinator for Title IX also may discuss the complaint with the Superintendent or designee, the parent/guardian of the complainant, the parent/guardian of the respondent, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and District legal counsel or the District's risk manager.

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5. **Supportive Measures:** The principal or District coordinator for Title IX shall determine whether supportive measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. **Optional Mediation:** For student-on-student harassment, when the complainant and the respondent so agree, the principal or District coordinator for Title IX may arrange for them to resolve the complaint informally with the help of a counselor, teacher, or administrator. The complainant shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and shall be advised of the right to end the informal process at any time.

(cf. 5138 - Conflict Resolution)

7. **Factors in Reaching a Determination:** In reaching a decision about the complaint, the principal or District coordinator for Title IX may take into account:
 - a. Statements made by the persons identified above
 - b. The details and consistency of each person's account
 - c. Evidence of how the complainant reacted to the incident
 - d. Evidence of any past instances of harassment by the respondent
 - e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the principal or District coordinator for Title IX may take into consideration:

- a. How the misconduct affected one or more students' education
 - b. The type, frequency, and duration of the misconduct
 - c. The identity, age, and sex of the respondent and the complainant, and the relationship between them
 - d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
 - e. The size of the school, location of the incidents, and context in which they occurred
 - f. Other incidents at the school involving different students
8. **Written Report on Findings and Follow-Up:** No more than 30 days after receiving the complaint, the principal or District coordinator for Title IX shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the principal or District coordinator for Title IX shall notify the parent/guardian of the student who complained and explain the reasons for the extension.

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The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If it is determined that harassment occurred, the report shall also state that corrective actions have been taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the complainant, respondent, the parents/guardians of the complainant and respondent, and the Superintendent or designee.

In addition, the principal or District coordinator for Title IX shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The principal or District coordinator for Title IX shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

Enforcement of District Policy

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

(cf. 5131.5 - Vandalism and Graffiti)

2. Providing information to students, staff, and parents/guardians about how to recognize harassment and how to respond

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

3. Disseminating and/or summarizing the District's policy and regulation regarding sexual harassment

4. Communicating the school's response to parents/guardians and the community which are consistent with the laws regarding the confidentiality of student and personnel records

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action.

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In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which was known not to be true.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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

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

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. (34 CFR 106.8)

The District shall notify students and parents/guardians of the name or title, office address, email address, and telephone number of the District's Title IX Coordinator. (34 CFR 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 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

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 231.5)
3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

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4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the District's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6; 34 CFR 106.8)
5. Be provided as part of any orientation program conducted for new students and continuing students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
6. Appear in any school or District publication that sets forth the schools or District's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
7. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to students or parents/guardians (34 CFR 106.8)

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall also 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 web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

Chino Valley Unified School District

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