

Acknowledgement of Sexual & Gender-Based Harassment Training

Sexual and gender-based harassment in the workplace is strictly prohibited by the West Contra Costa Unified School District (WCCUSD) and is against the law. Sexual harassment involves unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. Gender-based harassment includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, although they are not necessarily sexual in nature. Prohibited conduct includes harassment of an individual for exhibiting what is perceived as a stereotypical characteristic for their sex, or for nonconformance with stereotypical notions of masculinity or femininity.

I understand that all WCCUSD employees have the right to work in an environment free from sexual harassment.

I understand that all WCCUSD students have the right to be educated in a positive and safe environment that is free from sexual and gender-based harassment.

I understand that WCCUSD prohibits retaliatory behavior or action against any person who files a complaint, testifies, or otherwise participates in District complaint procedures.

I have received and reviewed WCCUSD's Sexual Harassment Policy and Complaint Procedure.

I understand that complaints, questions, or concerns regarding sexual and gender-based harassment should be directed to Jose Espinoza, Title IX Educational Equity Director. Mr. Espinoza may be contacted at (510) 231-1118 or at jespinoza2@wccusd.net. All complaints will be promptly and thoroughly investigated.

I understand the behaviors that constitute sexual and gender-based harassment and that I may not engage in them in the workplace. I also understand that I am responsible for reporting all known or suspected incidents of sexual and gender-based harassment.

My signature below indicates that I have been informed of and accept my individual responsibilities with regard to sexual and gender-based harassment. I agree to abide by all WCCUSD policies and procedures regarding sexual and gender-based harassment.

EMPLOYEE SIGNATURE

SITE/DEPARTMENT

PRINT NAME

DATE SIGNED

Board Policy Manual
West Contra Costa Unified School District

Regulation 5145.7: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 01/09/2012 | **Last Revised Date:** 05/15/2023 | **Last Reviewed Date:** 05/15/2023

Sexual and Gender-Based Harassment

Reporting Process

Any student, parent/guardian, or other person who believes a student has been subjected to sexual harassment, which includes any form of sex or gender-based harassment, by another student, an employee, or any third party, or who has witnessed an incident of possible sexual harassment, is strongly encouraged to report the incident to the student's teacher, vice principal, principal, the District's Title IX Coordinator, or any other available school employee, and/or to submit a complaint pursuant to AR 1312.3 - Uniform Complaint Procedures or AR 5145.71 – Title IX Sexual Harassment Complaint Procedures.

Any employee who receives a complaint or report of sexual harassment shall, within one school day of receiving the complaint or report, or within one school day of observing an incident of potential sexual harassment that involves a student, forward the complaint or report, or prepare and forward a written description of a verbal report or observation, to the principal or the Title IX Coordinator. The employee shall take these actions whether or not the alleged victim submits a complaint, and even if the alleged victim requests their identity or the triggering incident be kept confidential. The Title IX Coordinator shall be responsible for assessing a victim's request for confidentiality, and will only initiate the Title IX Sexual Harassment Complaint Process – AR 5145.71 against a victim's wishes if doing so is not clearly unreasonable in light of the known circumstances.

If a complaint or report of sexual harassment is initially submitted to the principal, the principal shall forward the complaint or report to the Title IX Coordinator that same day, or as soon as is reasonably possible.

In any case of sexual harassment involving the principal, Title IX Coordinator, or any other person to whom the incident would ordinarily be reported, the complaint or report may instead be submitted to the Superintendent or designee who shall determine who will investigate or otherwise process the complaint or report.

When a verbal or informal report of sexual harassment is submitted, the principal and/or Title IX coordinator shall inform the student or parent/guardian of their right to file a formal written complaint in accordance with applicable District complaint procedures. As detailed in AR 5145.71, if the alleged conduct meets the definition of sexual harassment under Title IX, the Title IX Coordinator must notify the student-victim of this right. If a complainant- victim refuses to reduce their complaint to writing in accordance with either AR 1312.3 or AR 5145.71, the Title IX Coordinator or designee shall reduce the verbal complaint to writing and may initiate an investigation into the verbal allegations pursuant to AR 1312.3 or AR 5145.71.

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Title IX Coordinators

The District designates the following individual, who holds the title of Title IX Coordinator, as the employee responsible for coordinating its efforts to comply with Title IX of the Education Amendments of 1972, as well as to oversee, investigate, and/or resolve sexual harassment complaints processed under AR 1312.3 - Uniform Complaint Procedures and AR 5145.71 – Title IX Sexual Harassment Complaint Procedures.

The Title IX Coordinator may be contacted at:

Jose Espinoza
Director, Office of Educational Equity | Title IX Coordinator | Equity Compliance Officer
West Contra Costa Unified School District
1108 Bissell Avenue
Richmond, CA 94801
Phone: (510) 231-1118
Email: jespinoza2@wccusd.net

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.71 – Title IX Sexual Harassment Complaint Procedures)

Supportive Measures and Response Pending Investigation

When an incident of sexual harassment is reported, the Title IX Coordinator or designee, in consultation with the Title IX Coordinator, shall determine whether supportive measures are necessary during and pending the result of an investigation to stop the alleged discrimination and ensure that all students have access to the educational program and a safe school environment. Supportive measures will be implemented on a case by case basis and offered to both complainant-victims and respondents (or the accused), as appropriate. Any supportive measures adopted to address alleged sexual harassment, or related retaliation, shall be designed to preserve equal access to the district's educational program or activity without unreasonably burdening the other involved party. The supportive measures shall remain in place until the Title IX Coordinator determines that they are no longer necessary.

Supportive measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, academic support, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. All supportive measures shall be implemented in accordance with law and Board policy. Such actions shall be considered even when a student chooses to not file a formal complaint or if the alleged sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

Complaint Investigation and Resolution

The Title IX Coordinator or designee investigate and/or resolve the complaint in accordance with law and District policy. The Title IX Coordinator will determine, based on the allegations brought forth and how sexual harassment is defined under Title IX and District policy, whether the complaint or allegations therein should be processed in accordance with AR 1312.3 - Uniform Complaint Procedures or AR 5145.71 – Title IX Sexual Harassment Complaint Procedures. Complaints that are filed but do not meet the definition of sexual harassment under Title IX may need to be formally dismissed pursuant to AR 5145.71.

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

When a complaint or report of sexual harassment involves off-campus conduct that was outside a district program or activity, the Title IX Coordinator, or a designee who has consulted with 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 or designee determines that a hostile environment may be created, the complaint shall be investigated and resolved, as is deemed appropriate under the circumstances. At a minimum, supportive measures will be offered to the victim.

In investigating a sexual harassment complaint, evidence of past sexual relationships of the complainant-victim shall not be considered, except to the extent that such evidence may relate to the complainant-victim's prior relationship with the respondent.

If sexual harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, and address any continuing effects.

Notifications

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, for grades 9 through 12, 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)

4. Be posted in a prominent location on the District's website in a manner that is easily accessible to parents/guardians and students. This shall include the name or title, office address, email address, and telephone number of the employee designated as the District's Title IX Coordinator. (Education Code § 236; 34 CFR § 106.8) The posting shall include the rights of a student and the public and the responsibilities of the District under Title IX, which shall include, but shall not be limited to, Internet Web links to the California Department of Education's Office for Equal Opportunity and the United States Department of Education Office of Civil Rights, as well as the list of rights specified in Education Code Section 221.8. (Education Code § 221.61) The list of rights in Education Code Section 221.8 include:
 - a. The right to fair and equitable treatment and to not be discriminated against based on sex.
 - b. The right to be provided with an equitable opportunity to participate in all academic extracurricular activities, including athletics.
 - c. The right to inquire of the athletic director of the school as to the athletic opportunities offered by the school.
 - d. The right to apply for athletic scholarships.
 - e. The right to receive equitable treatment and benefits in the provision and maintenance of all of the following: equipment and supplies; scheduling of games and practices; transportation and daily allowances; access to tutoring; coaching; locker rooms; practice and competitive facilities; medical and training facilities and services; and publicity.
 - f. The right to have access to a gender equity coordinator to answer questions regarding gender equity laws.
 - g. The right to contact the State Department of Education and the California Interscholastic Federation to access information on gender equity laws.
 - h. The right to file a confidential discrimination complaint with the United States Office of Civil Rights or the State Department of Education if discriminated against or given unequal treatment on the basis of sex.
 - i. The right to pursue civil remedies if you have been discriminated against.
 - j. The right to be protected against retaliation if you file a discrimination complaint.

(Education Code § 221.8.)

The posting shall also include a description of how to file a Title IX complaint, which contains:

- a. An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred, and how a complaint may be filed beyond the statute of limitations;
 - b. An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including, but not limited to, Internet Web links to this information on the United States Department of Education Office for Civil Rights' web site; and
 - c. An Internet Web link to the United States Department of Education Office for Civil Rights complaints form, and the contact information for the office, which shall include the phone number and email address for the office.
- (cf. 1113 - District and School Web Sites)
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 § 231.)
 6. 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 § 231.5.)
 7. Be included in any handbook provided to students, parents/guardians, employees, or employee organizations. (34 CFR § 106.8.)

Instruction/Information

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

1. Notice regarding which acts and behaviors 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 incidents of sexual harassment even when the alleged 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. 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 respond to harassment, prevent recurrence, and address any continuing effect on students, in a manner deemed appropriate by a Title IX Coordinator.
6. Information about the district's procedures 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 implement supportive measures to ensure a safe school environment for a student who is the complainant-victim of sexual harassment, and the respondent. Supportive measures will be designed to restore or preserve equal access to the district's educational program or activity without unreasonably burdening the other involved party.

Gender Based Harassment in Athletics and Clubs

No person shall on the basis of sex, sexual orientation, gender, ethnic group, identification, race, ancestry, national origin, religion, color or mental or physical disability, be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise discriminated against in interscholastic, intramural or club athletics. (5 CCR § 4920).

The District also shall not provide or otherwise carryout any extracurricular or activities separately, or require or refuse participation therein by any of its pupils on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability.

A student shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with their gender identity, irrespective of the gender listed on the student's records. (Education Code. § 221.5(f)).

The District shall ensure that Athletic programs supported by public funds provide equal opportunity to both sexes for participation and for use of facilities. (Education Code § 221.7(b)). The District may provide separate toilet, locker room and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex. (34 C.F.R. § 106.33).

The District may also implement "gender-neutral" restrooms or private changing areas for any student who desires increased privacy, regardless of the underlying reason. No student shall be compelled to use such restroom or changing area unless they choose to do so themselves. Any alternative restroom or changing room arrangement should be provided in a way that keeps the student's gender identity confidential.

All pupil clubs shall have equal access to District facilities to conduct meetings, and a fair opportunity to meet within the limited open forum of the District.

The District will accommodate the interests and abilities in athletics of both sexes by any of the following tests:

1. Opportunities for interscholastic-level participation for male and female pupils are provided in numbers substantially proportionate to their respective enrollments.
2. The history of the program and continuing practice of program expansion are demonstrably responsive to the developing interest and abilities of members of the sex that has been and is underrepresented among interscholastic athletes.
3. Interests and abilities of the members of the underrepresented sex have been fully and effectively accommodated by the present program. (Education Code § 230(d)).

If the District only provides one team in a particular sport for members of one sex, but provides no team in the same sport for members of the other sex, and athletic opportunities in the total program for that sex have previously been limited, members of the excluded sex must be allowed to try out and compete with the District team. The same standards for eligibility shall be applied to every pupil trying out for a team, regardless of sex or sexual orientation or other protected group status. (5 CCR § 4921(b)).

The District ensures that each public elementary school and secondary school offering competitive athletics shall make all of the following information publicly available at the end of the school year: (1) total enrollment of the school, classified by gender; (2) number of pupils enrolled at the school who participate in competitive athletics, classified by gender; and (3) number of boys' and girls' teams, classified by sport and competition level. (Education Code § 221.9(a)).

- a. The information shall reflect the total number of players on a team roster on the first official day of team competition. (Education Code § 221.9(b)).
- b. This information shall be posted on the district's website, with the information for each school disaggregated by school site. (Education Code § 221.9(c)).
- c. All materials used to compile each school's information shall be retained by the school for a minimum of three years after the information is posted on the internet. (Education Code § 221.9(d)).

If the District reduces its athletic budget, it does so consistently with its legal obligation to comply with both state and federal gender equity laws. (Education Code § 230(e)).

West Contra Costa USD

Board Policy

Sexual and Gender-Based Harassment

BP 5145.7

Students

The West Contra Costa Unified School District Board of Education, hereinafter referred to as the Board, is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits sexual and gender-based harassment of students by other students, employees, or other persons, while on school grounds, while going to or coming from school, while at school activities on or off school grounds, while on District transportation, or while otherwise in a District program or activity. The Board also prohibits retaliatory behavior or action against any persons who files a complaint, testifies, or otherwise participates in District complaint procedures.

Sexual Harassment Under District Policy

“Sexual harassment” under District policy means 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 student.
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. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 – Nondiscrimination, Harassment, Intimidation & Bullying)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Sexual harassment also includes nonconsensual touching and cyber sexual bullying, as defined and prohibited by the California Penal Code and Education Code.

“Nonconsensual touching,” as defined in Penal Code section 243.4, means touching another person’s intimate part against that person’s will. “Touch” means direct physical contact or contact through the clothing of either person. “Intimate part” means sexual organ, anus, groin, or

buttocks of any person, or the breast of a female.

“Cyber sexual bullying,” as defined in Education Code section 48900(r)(2)(A)(iii), means electronic dissemination of or solicitation or incitement to electronically disseminate a sexually explicit image or recording, by a student to another student or to school personnel, that causes the student to be in fear of harm, or a substantially detrimental effect on the student’s physical or mental health, or the student’s ability to benefit from the educational environment.

Examples of conduct that may constitute sexual harassment under District policy, if unwelcome, include:

1. Suggestive or obscene letters, notes, invitations, graffiti, jokes, or comments; slurs; epithets; sexual gestures; and displays of sexually suggestive objects, pictures, or cartoons.
2. Groping, sexual touching, leering, and impeding or blocking movement.
3. Sexual conduct that would be considered criminal activity, including sexual assault and sexual exploitation.
4. Continuing to express sexual interest after being informed that the interest is unwelcome (reciprocal attraction, among peers, is not considered sexual harassment).
5. Threatening to withhold grades earned or deserved or suggesting a scholarship recommendation or college application will be denied, as a condition of receiving sexual favors.
6. Engaging in sexual behavior to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
7. Offering favors or educational benefits, such as grades, assessments, assignments, and recommendations in exchange for sexual favors.
8. Inappropriate sexual touching between students that, even if consensual, contributes to a sexually charged environment for other students who witness the behavior.
9. Any sexual conduct or expression of sexual interest by an adult toward a student regardless of reciprocity.

Gender-Based Harassment Under District Policy

Gender-based harassment is sexual harassment and includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, although they are not necessarily sexual in nature. Prohibited conduct includes harassment of a student for exhibiting what is perceived as a stereotypical characteristic for their sex, or for nonconformance with stereotypical notions of masculinity and femininity.

“Gender” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.” (Education Code §210.7).

“Gender identity” refers to a person’s gender-related identity, appearance or behavior whether or not different from that traditionally associated with the person’s physiology or assigned sex at birth.

“Gender expression” refers to external cues that one uses to represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

“Transgender” describes people whose gender identity is different from that traditionally associated with their assigned sex at birth. “Transgender boy” and “transgender male” refer to an individual assigned the female sex at birth who has a male gender identity. “Transgender girl” and “transgender female” refer to an individual assigned the male sex at birth who has a female gender identity. An individual can express or assert a transgender gender identity in a variety of ways, which may but do not always include specific medical treatments or procedures. Medical treatments or procedures are not considered a prerequisite for one’s recognition as transgender.

“Gender nonconformity” refers to one’s gender expression, gender characteristics, or gender identity that does not conform to gender stereotypes “typically” associated with one’s legal sex assigned at birth, such as “feminine” boys, “masculine” girls and those who are perceived as androgynous. Sexual orientation is not the same as gender identity. Not all transgender youth identify as gay, lesbian or bisexual, and not all gay, lesbian and bisexual youth display gender-nonconforming characteristics.

Examples of conduct that may constitute gender-based harassment include:

1. Disparaging remarks made to a student or aggression toward a student because that student displays mannerisms or a style of dress perceived as indicative of the other sex.
2. Hostility toward a student because that student participates in an athletic activity more typically favored by a student of the other sex.
3. Intimidating a student to discourage that student from enrolling in a particular area of study because of his/her gender.
4. Use of gender-specific slurs, whether written or spoken.
5. Taunting a student who wishes to participate in an extracurricular activity because that activity is more typically favored by a student of the other sex.

Any conduct prohibited under this policy, whether it be sexual harassment or gender-based harassment, 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 targeted student. Moreover, any conduct that meets the definition of “sexual harassment” under Title IX of the Education Amendments of 1972 (Title IX), as detailed below, is prohibited under District policy.

Sexual Harassment Under Title IX

Some sexual harassment prohibited by District policy, as described above, may also be prohibited under Title IX. Under Title IX, sexual harassment toward a student means conduct on the basis of sex that satisfies at least one of the following:

1. An employee conditioning the provision of an aid, benefit, or service of the District on the student-victim'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 educational program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 U.S.C. § 1092 or 34 U.S.C. § 12291.

"Sexual assault" means actual or intentional physical sexual acts against a person without consent that may include: rape, rape and seduction, sodomy, lewd and lascivious acts, oral copulation, sexual penetration, sexual battery, and sexual assault, as defined under Education Code section 48900(n) and Penal Code section 261, 266c, 286, 288, 288a, 289 and 243.4.

"Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (34 U.S.C. § 12291(a)(10).)

"Domestic violence" means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws. (Ed. Code, § 48900, subd. (n).)

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. (34 U.S.C. § 12291(a)(30).)

"Without consent" or "against that person's will" may include: force, duress, violence, fear of immediate harm, or one's inability to consent.

Reporting Allegations of Sexual Harassment

Any student who feels that they are being or have been harassed based on sex or gender while on school grounds, while going to or coming from school, while at school activities on or off school grounds, while on District transportation, or while otherwise in a District program or activity, is encouraged to immediately contact a teacher or any other employee.

An employee who receives such a complaint, or otherwise becomes aware of or personally observes possible sexual or gender-based harassment shall immediately report it to the District's Title IX Coordinator, or the principal or vice principal of the relevant school site. Once notified, the Title IX Coordinator, principal, vice principal, or designee shall take the steps to address the complaint or report in a manner that is consistent with the appropriate administrative regulation. Appropriate supportive measures shall also be offered to the complainant-victim upon receipt of

any complaint or report.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Notice and Instruction Related to District Policy on Sexual Harassment

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 website, and including it in the student and staff handbooks. The District shall also create a poster that notifies students of the District's sexual harassment policy, and display the poster in a prominent and conspicuous location in the main administrative building or other area where notices of District rules, regulations, procedures, and standards of conduct are posted, and in each bathroom and locker room on campus.

The Superintendent or designee shall ensure that all District students receive age-appropriate information on sexual harassment. All District staff shall be trained regarding the District policies that prohibits sexual harassment of students.

Complaint Processes

Title IX Complaints:

If the alleged conduct, if taken to be true, meets the definition sexual harassment under Title IX, as defined above, the complaint or allegation(s) shall be investigated or otherwise resolved in accordance with the procedures outlined in Title IX and AR 5145.71 – Title IX Sexual Harassment Complaint Procedures. This determination shall be made by the Title IX Coordinator. If a complaint does not rise to the level of sexual harassment under Title IX, it may need to be formally dismissed pursuant to Title IX and AR 5145.71.

All Other Sexual and Gender-Based Harassment Complaints:

If the alleged conduct, even if taken to be true, is sexual in nature or based on sex or gender, but does not meet the definition of sexual harassment under Title IX, the complaint or allegation(s) shall be investigated or otherwise resolved in accordance with the law and District procedures specified in AR 1312.3 - Uniform Complaint Procedures. This determination shall be made by the Title IX Coordinator.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.71 – Title IX Sexual Harassment Complaint Procedures)

Disciplinary and Other Measures

Upon completion of an investigation of a sexual or gender-based harassment complaint, whether the investigation followed AR 1312.3 or AR 5145.71, any student found to have engaged in sexual or gender-based harassment in violation of this policy or Title IX will receive interventions and may be subject to disciplinary action. Examples of interventions include counseling, guidance, education about the impact of harassment, positive behavior support, referral to a student success team, transfer to alternative programs, and denial of participation in

extracurricular or co-curricular activities or other privileges. For students in grades 4 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing discipline the entire circumstances of the incident(s) shall be taken into account.

(cf. 5144 - Discipline)

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

Upon completion of an investigation of a sexual or gender-based harassment complaint, any employee found to have engaged in sexual or gender-based harassment toward any student shall be subject to disciplinary action, up to and including termination in accordance with law and the applicable collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 - Sexual and Gender-Based Harassment)

The District will respond to off-campus sexual or gender-based harassment if the harassment contributes to a hostile environment on campus, poses a threat or danger to the safety of students, or substantially disrupts school activities.

Confidentiality and Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual and gender-based harassment to enable the District to monitor, address and prevent repetitive harassing behavior in its schools. Additional record-keeping requirements for complaints that fall under Title IX are detailed in AR 5145.71 – Title IX Sexual Harassment Complaint Procedures.

(cf. 3580 - District Records)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

All complaints and allegations of sexual and gender-based harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR § 4964).

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

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

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

[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, 9th Cir.) 208 F.3d 736

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

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Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

adopted: November 3, 2010 Richmond, California

revised: March 26, 2014

revised: November 4, 2020

Regulation 4119.11: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 01/06/2016 | **Last Revised Date:** 08/13/2021 | **Last Reviewed Date:** 08/13/2021

This administrative regulation describes the manner in which measures, aimed at preventing sexual harassment in the workplace, shall be implemented.

Training

The Superintendent or designee shall ensure that all employees receive training regarding the District's sexual harassment policies when hired and periodically thereafter. Training shall include how to recognize prohibited or harassing conduct, the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the District's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee. The training shall also include information about processes for employees to informally share or obtain information about harassment without filing a complaint.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom, and nonsupervisory employees receive at least one hour, or other effective interactive training and education regarding sexual harassment. All such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Gov. Code, § [12950.1](#))

A supervisory employee is any employee having the authority in the interest of the District to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or to effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Gov. Code, § [12926](#))

(cf. 4300 – Administrative And Supervisory Personnel)

Such training may be completed by employees individually or as part of a group presentation; may be completed in shorter segments as long as the applicable hourly requirement is met; and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation (Gov. Code, § 12950.1).

The District's sexual harassment training and education program for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include, but is not limited to, the following: (Gov. Code, § [12950.1](#); 2 CCR § 11024)

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention and correction of sexual harassment, and the remedies available to sexual harassment victims in civil actions, and potential district and/or individual exposure or liability.
2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources.
3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment.
4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint.
5. The essential elements of the District's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed.
6. A copy of the District's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received.
7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance, and that a single act does not constitute abusive conduct unless the act is severe or egregious.
8. Practical examples of harassment based on gender identity, gender expression, and sexual orientation.

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR § 11024)

Notifications

The Superintendent or designee shall notify employees that the District does not discriminate on the basis of sex, as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, 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 C.F.R. § 106.8; 34 C.F.R. § 106.45).

A copy of the Board policy and this administrative regulation shall: (Ed. Code, § [231.5](#))

1. Be displayed in a prominent location in the main administrative building, District office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted.
2. Be provided to every District employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired.
3. Appear in any school or district publication that sets forth the school's or District's comprehensive rules, regulations, procedures, and standards of conduct.
4. Be publicly posted on the District's website, if the District has one.

All employees shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or the District that contains, at a minimum, components on: (Gov. Code, § [12950](#))

1. The illegality of sexual harassment.
2. The definition of sexual harassment under applicable state and federal law.
3. A description of sexual harassment, with examples.
4. The District's complaint process available to the employee.
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC).
6. Directions on how to contact DFEH and the EEOC.
7. The protection against retaliation provided by California Code of Regulations, title 2, section [11021](#) for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC.

In addition, the District shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment, and the DFEH poster regarding transgender rights. (Gov. Code, § [12950](#))

Regulation WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

**Board Policy Manual
West Contra Costa Unified School District**

Policy 4119.11: Sexual Harassment

Status: ADOPTED

Original Adopted Date: 08/20/2008 | **Last Revised Date:** 06/07/2023 | **Last Reviewed Date:** 06/07/2023

The Governing Board is committed to providing a safe work environment that is free of harassment and intimidation. The Board prohibits sexual harassment against District employees, as well as retaliatory behavior or action against any person who complains, testifies or otherwise participates in the complaint process established for the purpose of this policy.

Sexual harassment may include, but is not limited to, harassment that is based on a person's sex, gender, gender identity, gender expression, sexual orientation or pregnancy, childbirth, or related medical conditions.

This policy shall apply to all District employees and, when applicable, shall also apply to other persons on District property or with some employment relationship with the District, such as unpaid interns, volunteers, contractors, and job applicants.

Any District employee who engages or participates in sexual harassment, as is defined herein, or related retaliation, or who aids, abets, incites, compels, or coerces another to commit sexual harassment, as is defined herein, or related retaliation, is in violation of this policy and shall be subject to appropriate disciplinary action, up to and including dismissal, in accordance with the law and any applicable collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4119.11 - Sexual Harassment And Gender-Based Harassment)

Where a student is found to have engaged in sexual harassment, or related retaliation, in violation of this policy, the District shall take appropriate disciplinary actions and/or other appropriate corrective measures or interventions. For students in grades 4-12, 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)

Sexual Harassment Under District Policy

For purposes of this policy and Board Policy and Administrative Regulation 4030 – Nondiscrimination in Employment, “sexual harassment” means any unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, visual, or physical conduct of a sexual nature, whether it occurs between individuals of the same or different sex, under any of the following conditions (Ed. Code, § 212.5; 5 CCR § 4916; Gov. Code, § 12940; 2 CCR §§ 11029-11034):

1. Submission to the conduct is explicitly or implicitly made a term or a condition of the employee's employment;

2. Submission to, or rejection of, the conduct by the employee is used as the basis of an employment decision affecting the employee;
3. The conduct has the purpose or effect of having a negative impact upon the employee's work, or progress, or has the purpose or effect of creating an intimidating, hostile, or offensive working environment. The conduct is sufficiently severe, persistent, pervasive or objectively offensive, so as to create a hostile or abusive working environment or to limit the employee's ability to participate in or benefit from the terms or conditions of the employee's employment; and/or
4. Submission to, or rejection of, the conduct by the employee is used as the basis for any decision affecting the employee regarding benefits and services, honors, programs, or activities available at or through the District.

Examples of conduct that might constitute sexual harassment include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly familiar conversations; pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, or innuendoes; derogatory comments; sexually degrading descriptions; the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit e-mails; displaying sexually suggestive objects; and/or
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in an overly familiar or sexual way; cornering, blocking, leaning over, or impeding normal movements.

Any act of retaliation against an individual who reports a violation of this policy, or who participates in an investigation into alleged conduct prohibited by this policy, is prohibited.

Sexual Harassment Under Title IX

Some sexual harassment prohibited by District policy, as described above, may also be prohibited under Title IX. Under Title IX, sexual harassment toward an employee means conduct on the basis of sex that satisfies at least one of the following:

1. A District employee conditioning the provision of an aid, benefit, or service of the District on the employee's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable individual to be so severe, pervasive, and objectively offensive that it effectively denies the employee equal access to the terms and/or conditions of employment; and/or
3. "Sexual assault" as defined in United States Code, title 20, section 1092(f)(6)(A)(v), "dating violence" as defined in United States Code, title 34, section 12291(a)(10), "domestic violence" as defined in United States Code, title 34, section 12291(a)(8), or "stalking" as defined in United States Code, title 34, section 12291(a)(30).

“Sexual assault” means actual or intentional physical sexual acts against an individual without consent that may include: rape, rape and seduction, sodomy, lewd and lascivious acts, oral copulation, sexual penetration, sexual battery, and sexual assault, as defined under Education Code section 48900(n) and Penal Code sections 261, 266c, 286, 287, 288, 288a, 289 and 243.4.

“Dating violence” means violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim (34 U.S.C. § 12291(a)(10)).

“Domestic violence” means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by an individual with whom the victim shares a child in common, by an individual who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws (34 U.S.C. § 12291(a)(8)).

“Stalking” means engaging in a course of conduct directed at a specific individual that would cause a reasonable individual to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress (34 U.S.C. § 12291(a)(30)).

“Without consent” or “against that individual’s will” may include force, duress, violence, fear of immediate harm, or an individual's inability to consent.

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

Sexual Harassment Reports

Any district employee, or person covered by this policy, who feels that they have been subjected to sexual harassment, or related retaliation, in the performance of their District responsibilities or while on school grounds or participating in a District program or activity, is encouraged to immediately report the conduct to their supervisor or the District’s Title IX Coordinator, identified below. Any employee who has knowledge of any incident of sexual harassment or related retaliation, by or against another employee or person covered under this policy, shall immediately report the incident to their direct supervisor or the District’s Title IX Coordinator. A supervisor or administrator who receives a complaint of sexual harassment or related retaliation shall promptly notify the District’s Title IX Coordinator.

Title IX Coordinator

The District designates the position/individual identified below as responsible for coordinating its efforts to comply with Title IX of the Education Amendments of 1972, as well as to oversee, investigate, and/or resolve complaints alleging sexual harassment in accordance with Administrative Regulation 4030 – Nondiscrimination in Employment and Administrative Regulation 4119.12 – Title IX Sexual Harassment Complaint Procedures.

The Title IX Coordinator may be contacted at:

Jose Espinoza
Director, Office of Educational Equity | Title IX Coordinator | Equity Compliance Officer
1108 Bissell Avenue

Richmond, CA 94801
Phone: (510) 231-1118
Email: jespinoza2@wccusd.net

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (2 CCR 11023)

Complaint Procedures

Title IX Complaints:

If the alleged conduct, if taken to be true, meets the definition of sexual harassment under Title IX, as defined above, the complaint or allegation(s) shall be investigated or otherwise resolved in accordance with the procedures outlined in Title IX and AR 4119.12 – Title IX Sexual Harassment Complaint Procedures. This determination shall be made by the Title IX Coordinator. If a complaint does not rise to the level of sexual harassment under Title IX, it may need to be formally dismissed pursuant to Title IX and AR 4119.12.

All Other Sexual and Gender-Based Harassment Complaints:

If the alleged conduct, even if taken to be true, is sexual in nature or based on sex or gender, but does not meet the definition of sexual harassment under Title IX, the complaint or allegation(s) shall be investigated or otherwise resolved in accordance with the law and District procedures specified in AR 4030 – Nondiscrimination in Employment. This determination shall be made by the Title IX Coordinator.

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4119.12 - Title IX Sexual Harassment Complaints)

Preventative Measures

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, in accordance with the law and the corresponding administrative regulation, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulations.
2. Publicizing and disseminating the District's sexual harassment policy to employees and others to whom the policy may apply.
3. Ensuring prompt, thorough, and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

5. Providing supportive measures to both the complainant and the individual alleged to have perpetrated the conduct (respondent), as appropriate, including but not limited to, interim separation of the complainant and the respondent.

The Superintendent or designee shall periodically evaluate the effectiveness of the District's strategies to prevent and address sexual harassment and related retaliation. Such evaluation may involve conducting regular anonymous employee surveys to assess whether sexual harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the District's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the sexual harassment policy, complaint procedures, or training.

Record-Keeping

In accordance with law, the Superintendent or designee shall maintain a record of all written complaints of harassment or discrimination, and related retaliation, to enable the District to monitor, address, and prevent repetitive behavior, in accordance with the District's applicable complaint procedure(s).

(cf. 3580 - District Records)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)