

Regulation 5145.7: Sexual Harassment

Status: ADOPTED

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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
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' website; 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)).
