

Alameda City USD

Board Policy

Anti- Harassment Policy

BP 5145.7

Students

The Board of Education is committed to providing all students with an educational environment that is safe and supportive and free from harassment and discrimination. Members of the school community are expected to treat each other with respect. Teachers and other staff members are expected to teach and to demonstrate by example that all members of the community are entitled to respect.

Prohibited Conduct

Harassment of a student by other students, employees, or other persons, at school or at school-sponsored or school-related activities is a violation of district policy. This includes (but is not limited to) harassment based on race, national origin, marital status, sex, sexual orientation, gender identity, religion or disability. Punishable harassment is conduct, including verbal conduct, that (1) creates a hostile environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being; or (2) that is threatening or seriously intimidating.

Sexual harassment is a form of harassment that also violates district policy. Punishable sexual harassment is an unwelcome sexual advance or sexual conduct, including verbal conduct, (1) that is tied to a student's educational benefits, opportunities, or performance, or to a student's physical or psychological well-being; (2) that creates a hostile environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being; or (3) that is threatening or seriously intimidating.

The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in district complaint processes.

Instruction/Information

To prevent harassment in the first instance, staff members should teach why harassment is wrong and teach that tolerance and respect are essential to a free society. The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on harassment. Such instruction and information shall include:

1. What acts and behavior constitute harassment, including the fact that harassment

could occur between people of the same sex.

2. A clear message that students do not have to endure harassment.
3. Encouragement to report observed instances of harassment, even where the victim of the harassment has not complained.
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of harassment should be made.

Complaint Process

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

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

Disciplinary Actions

Any student who engages in harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. 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.

Confidentiality and Record-Keeping

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

The Superintendent or designee shall maintain a record of all reported cases of harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

12950.1 Sexual harassment training

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, discrimination

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

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

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance, January 2001

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

Policy ALAMEDA UNIFIED SCHOOL DISTRICT

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