

SEXUAL HARASSMENT

The Monterey County Board of Education (Country Board) and the Monterey County Superintendent of Schools (County Superintendent) are committed to maintaining a safe school environment that is free from harassment and discrimination and specifically sexual harassment of students either at school or at school-sponsored or school-related activities or by cyber intimidation that can originate on or off the school site. [Education Code 48900]

Sexual harassment includes rape, sexual assault, sexual battery, and sexual coercion, unwelcome sexual advances, or sexual intimidation. Regardless of whether a harassed student, his/her parent/guardian, or a third party files a complaint under Monterey County Office of Education (MCOE) procedures or otherwise requests action on the student's behalf, a school employee who knows, or reasonably should know, about possible harassment must promptly take action to determine what occurred and then take appropriate steps to resolve the situation.

When a parent/guardian or student does not wish to disclose the student's identity, MCOE shall take steps to protect the identity of the student.

The County Superintendent or designee is obligated to investigate a complaint of sex discrimination and refer the incident to law enforcement as required by law. [Education Code 200-262.4]

The County Board and County Superintendent strongly encourage any student who has been sexually harassed on school grounds or at a school-sponsored, or school-related activity, or by cyber intimidation that can originate on or off the school site by another student or an adult to immediately contact his/her teacher, the principal, program administrator, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal, program director, or the Assistant Superintendent of Human Resources.

There shall be no retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

(cf. 0410 - Nondiscrimination in School Programs and Activities)
(cf. 1312.1 - Complaints Concerning School Employees)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5137 - Positive School Climate)
(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 - Uniform Complaint Procedures - and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

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

1221 *Application of laws*
 1232g *Family Educational Rights and Privacy Act*
 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

99.1-99.67 *Family Educational Rights and Privacy*
 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

Adopted: 09/15/99

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