BERKELEY USD

BP 5145.7 Students

Sexual Harassment

The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students at school or at school2. 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 where 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. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made

6. Information about the rights of students and parents/ guardians to file a civil or criminal complaint, as applicable

Disciplinary Actions

Any student who engages in sexual harassment or sexual violence 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.

Any staff member found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/ or collective bargaining agreements.

In addition, as provided in the District's sexual harassment policy governing employees (BP 4119.11), no District employee shall engage in any sexual relationship with any current District student, regardless of the age of the student. Such behavior shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/ or collective bargaining agreements.

Record-Keeping

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

Legal Reference:

EDUCATION CODE

<u>200-262.4</u> 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

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

<u>106.1-106.71</u> 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

CSBA: http://www.csba.org

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

U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

Policy BERKELEY UNIFIED SCHOOL DISTRICT

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