

MANTECA UNIFIED SCHOOL DISTRICT

Students

BP 5145.7(a)

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 school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

The district strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult to immediately contact his/her teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district compliance officer.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1312.1 - Complaints Concerning District 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)

Complaints regarding sexual harassment shall be investigated and resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy.

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. What acts and behavior 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 where the alleged victim of the harassment has not complained

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SEXUAL HARASSMENT (continued)

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.

(cf. 5144 - Discipline)

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

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

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.

(cf. 4117.4 - Dismissal)

(cf. 4117.7 - Employment Status Report)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

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.

(cf. 3580 - District Records)

Legal Reference: (see next page)

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SEXUAL HARASSMENT (continued)

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

Management Resources: (see next page)

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SEXUAL HARASSMENT (continued)

Management Resources:

CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Sexual Violence, April 4, 2011

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

WEB SITES

CSBA: <http://www.csba.org>

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>

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Students

AR 5145.7(a)

SEXUAL HARASSMENT

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 and California Education Code 234.1, as well as to investigate and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The coordinator/compliance officer(s) may be contacted at:

Complaint Compliance Officer
P.O. Box 32
Manteca, CA 95336
(209) 825-3200

(cf. 1312.3 - Uniform Complaint Procedures)

Prohibited sexual harassment includes, but is not limited to, 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. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

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

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions

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SEXUAL HARASSMENT (continued)

3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion

Reporting Process and Complaint Investigation and Resolution

Any student who believes that he/she has been subjected to sexual harassment or who has witnessed sexual harassment is strongly encouraged to report the incident to his/her teacher, the principal, or any other available school employee. Within one school day of receiving such a report, the school employee shall forward the report to the principal or the district's compliance officer identified in AR 1312.3. In addition, any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report his/her observation to the principal or a district compliance officer. The employee shall take these actions, whether or not the alleged victim files a complaint.

In any case of sexual harassment involving the principal, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted the Superintendent or designee.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

When a report of sexual harassment is submitted, the principal or compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with the district's uniform complaint procedures.

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AR 5145.7(c)

SEXUAL HARASSMENT (continued)

If a complaint of sexual harassment is initially submitted to the principal, he/she shall, within two school days, forward the report to the compliance officer to initiate investigation of the complaint. The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and district procedures specified in AR 1312.3.

Confidentiality

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

However, when a complainant or victim of sexual harassment notifies the district of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant or victim of sexual harassment notifies the district of the harassment but requests that the district not pursue an investigation, the district will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

Response Pending Investigation

When an incident of sexual harassment is reported, the principal or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary pending the results of the investigation. The principal/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. Such measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher, in accordance with law and Board policy. The school should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such actions shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

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SEXUAL HARASSMENT (continued)

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)

A copy of the district's sexual harassment policy and regulation shall be posted on district and school web sites and, when available, on district-supported social media.

(cf. 1113 - District and School Web Sites)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. 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)
5. Be included in the student handbook
6. Be provided to employees and employee organizations

**MANTECA UNIFIED SCHOOL DISTRICT
SEXUAL HARASSMENT COMPLAINT FORM**

The School Board encourages the early, informal resolution of complaints at the school site level. Please report your concerns to your school principal or vice principal first unless that person is the one you're complaining about. The school principal/vice principal shall advise the complainant of the right to file a written complaint with the District Complaint/Compliance Officer via mail at P.O. Box 32, Manteca, CA 95336, or delivered to the District Office at 2271 W. Louise Ave., Manteca, or through email at complaints@musd.net. All sexual harassment complaints will be investigated and responded to in accordance with Board Policy 5145.7 (Students) or 4119.11 (All Personnel) as appropriate. All policies and procedures for other types of complaints are available on the District Website.

The School Board prohibits retaliation in any form for the filing of a complaint or participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant or persons involved in the complaint investigation/resolution process. The identification of a complainant will remain confidential as appropriate.

Name:	First:	Last:	
I am a:	<input type="checkbox"/> Student	<input type="checkbox"/> Certificated Employee	<input type="checkbox"/> School Administrator
	<input type="checkbox"/> Parent	<input type="checkbox"/> Classified Employee	<input type="checkbox"/> Other (please describe)
Street:			
City:		Zip Code	
Phone:		Email	
Today's Date:			
Date(s) of Problem(s):			
School/Department:			
Course Name or Grade Level:			
The person(s) who sexually harassed me is/are:	<input type="checkbox"/> Student	<input type="checkbox"/> Certificated Employee	<input type="checkbox"/> School Administrator
	<input type="checkbox"/> Parent	<input type="checkbox"/> Classified Employee	<input type="checkbox"/> Other (please describe)
	The name(s) of the individual(s) who discriminated, harassed, intimidated, and/or bullied me or another person is/are:		
Witness(es) to this sexual harassment is/are:	<input type="checkbox"/> Student	<input type="checkbox"/> Certificated Employee	<input type="checkbox"/> School Administrator
	<input type="checkbox"/> Parent	<input type="checkbox"/> Classified Employee	<input type="checkbox"/> Other (please describe)
	<input type="checkbox"/> There were no witness(es)		
	The name(s) of the individual(s) who witnessed this harassment and/or discrimination is/are:		
This sexual harassment has already been reported to the following:	<input type="checkbox"/> Student	<input type="checkbox"/> Certificated Employee	<input type="checkbox"/> School Administrator
	<input type="checkbox"/> Parent	<input type="checkbox"/> Classified Employee	<input type="checkbox"/> Other (please describe)
	<input type="checkbox"/> I have not reported this incident(s) to anyone before		
	The name(s) of the individual(s) who were told about this incident(s) is/are:		
I have discussed my complaint with this person:	<input type="checkbox"/> Yes		
	<input type="checkbox"/> No		
	Date(s) of conversation(s):		
The type of sexual harassment this person engaged in was:	<input type="checkbox"/> Verbal	<input type="checkbox"/> Written (including emails)	<input type="checkbox"/> Physical
	Please give examples of what was done:		
Please describe your complaint in detail. You may attach additional pages if necessary to fully describe the situation.	Specific nature of the complaint; include names, dates, times, locations, witnesses, etc.:		

Date form was received:

Please describe previous attempts to stop this sexual harassment.	<u>Dates and results of any previous meetings with site/district personnel regarding your concerns:</u>
What would you like the District to do as a result of your complaint?	<u>Suggested remedy:</u>

Signature _____

Date _____

The School Board prohibits retaliation in any form for the filing of a complaint or participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant or persons involved in the complaint investigation/resolution process. The identification of a complainant will remain confidential as appropriate.

If applicable, explain why you believe that you were retaliated against for filing a sexual harassment complaint.	<u>Please give examples of retaliation:</u>
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Signature _____

Date _____