



Book	Policy Manual
Section	5000 STUDENTS
Title	Sexual Harassment
Code	BP 5145.7
Status	Second Reading and Action
Cross References	BP 0410 - Nondiscrimination in District Programs and Activities BP 1312.2 - Complaints Concerning Instructional Material BP 4118 - Suspension/Disciplinary Action BP 4119.11 - Sexual Harassment BP 5131.5 - Vandalism, Theft and Graffiti BP 5137 - Positive School Climate BP 5144.1 - Suspension and Expulsion BP 5144.11 - Due Process AR 5145.7 - Sexual Harassment
Adopted	October 8, 2004
Last Reviewed	May 3, 2021

The Board is committed to the elimination of sexual harassment in District schools and activities. Sexual harassment, sexual intimidation, and sexual misconduct are forms of discrimination and will not be tolerated. This includes harassment of students or staff members on or immediately adjacent to District property, at any District-sponsored activity, on any District provided transportation or at any official District bus stops. This policy also applies to off campus conduct that causes or threatens to cause a substantial or material disruption at school or other District property, or interferes with the right of students or staff to be free from a hostile educational environment taking into consideration the totality of the circumstances.

Sexual harassment may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of the conduct or communication is used as a factor in educational decisions affecting a student; or
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of
  - a. Substantially interfering with a student's educational environment; or
  - b. Creating an intimidating, hostile, or offensive educational environment; or
  - c. Denying, depriving, or limiting the provision of educational aid, benefits, services, opportunities, or treatment.

Sexual harassment does not include:

- Conduct that is necessary because of a job duty or because of a service required to be provided if the conduct is not the product of sexual intent.
- A person finding another person, or another person's actions, offensive because of that person's sexual orientation or gender identify.

Examples of sexual harassment, sexual intimidation, and sexual misconduct may include, but are not limited to:

1. Verbal or electronic comments such as requests for sexual favors; derogatory remarks; talking about one's sexuality in front of others; spreading rumors about or rating others as to appearance, sexual activity or performance; obscene jokes; gender-based stereotyping; remarks based on a person's gender nonconformity with gender stereotypes.
  - Sexual comments, such as making fun of gender, body shape, sexuality or stereotypes
  - Sexual comments related to gender, race, ethnicity;
  - Bragging about one's sexuality in front of others or talking about another's personal sexual history, purported reputation or spreading rumors of sexual history.
  - Bullying based on sexual identify or characteristics, including name calling and insults
  - Public shaming that is sexual in nature
  - A demand or request for sexual favors in exchange for benefits
2. Nonverbal conduct such as graffiti; display or distribution of sexually explicit drawings; pictures or written materials; text messages; or notes;
  - Displaying or distributing sexually explicit drawing, pictures and written materials
  - Posting and/or sharing sexual images, posting about sex; sharing inappropriate sexual videos or pictures
3. Physical conduct such as unwanted physical contact; sexual touching; fondling; sexual assault; dating violence; domestic violence; and other forms of sexual violence.
  - Touching, grabbing, patting, rubbing, pinching, grabbing clothes, brushing against or using body proximity to intimidate in a sexual way;

#### **COMPLAINTS:**

Students who believe that they may have been sexually harassed or intimidated should consult a counselor, teacher, Principal or the Title IX Coordinator. These persons will assist the student in the complaint process. Staff or students who knowingly condone or fail to report or assist a student to take action to remediate sexual harassment or intimidation may themselves be subject to discipline.

The Title IX Coordinator, who is appointed by the District and identified on the District website and in the KPBSD Parent-Student Handbook, has been designated to coordinate compliance with nondiscrimination and investigation of sexual harassment complaints. The District takes all reports of sexual harassment, sexual intimidation, and sexual misconduct seriously and will respond meaningfully to every report.

All complaints about behavior that may violate this policy shall promptly be investigated and addressed.

(cf. 5130.4 Investigating Complaints of Harassment)

Relevant factors to be considered will include, but are not be limited to:

- whether the individual viewed the environment as hostile;
- whether it was reasonable to view the environment as hostile;
- the nature of the conduct;
- the frequency, duration and severity of the conduct;
- the age and sex of the complainant;
- whether the alleged harasser was in a position of power over the student;
- the number of individuals involved;
- the age of the alleged harasser;
- other incidents of sexual harassment at the school involving the same parties

Due to the nature of sexual harassment, a complaint will be held in confidence insofar to the greatest extent possible. The District will only release sexual harassment complaint information to appropriate individuals in order to investigate the complaint and take corrective action.

Any individual seeking further information should consult with the Title IX Coordinator. Information about the Title IX Coordinator can be found on the school's website; in the Student Handbook; posted on school bulletin boards or by asking a teacher or school principal.

(cf. 5130.2 Filing a Complaint of Harassment, Bullying, Intimidation or Discrimination)

(cf. 5131.43 Harassment/Bullying)

(cf. 5145.3 Nondiscrimination)

(cf. 5130 Title IX Coordinator and Investigator)

The filing of a complaint, and the participation in an investigation, in good faith about behavior that may violate this policy shall not adversely affect:

- The educational assignments or educational environment of a student or other person initiating the complaint, reporting the behavior, or participating in the investigation;
- Any terms or conditions or employment or work or educational environment of a District employee or other person initiating the complaint, reporting the behavior, or participating in the investigation; and
- To the greatest extent possible, the District will respond educationally rather than with discipline to student alcohol or drug policy violations discovered when students and/or employees initiate a complaint, report harassment covered by this policy, or participate in an investigation. However, disciplinary action will occur if investigation determines that a

student or employee gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

### **SUPPORTIVE MEASURES**

The District will treat the complainant and respondent equitably by offering supportive measures. These non-disciplinary and non-punitive measures will be offered as appropriate, as reasonably available, and without cost to the complainant and/or the respondent. Supportive measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party. Supportive measures shall include, but not be limited to, measures designed to protect the safety of all parties, to protect the District's educational environment, or to deter sexual harassment. These measures may include counseling, extensions of deadlines or course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, increased security and monitoring, and other similar measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

### **DEFINITIONS:**

"Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency or interaction between the persons involved.

"District" includes: district facilities; district premises and non-district property if the student or staff member is at any district-sponsored, district approved or district related activity or function, such as field trips or athletic events, where students are under the jurisdiction of the District; or where a staff member is engaged in district business.

"Domestic Violence" includes crimes of violence committed by a person against another and that person is a current or former spouse, partner, person with whom the victim shares a child, person who they have or are dating or who they have or are in a sexual relationship with, or a person who is or has cohabitated with the victim.

### **RETALIATION PROHIBITED**

Retaliation against persons who file a complaint or who provide information during an investigation is prohibited.

### **FALSE REPORTING**

Any person who knowingly makes a false accusation regarding sexual harassment, sexual intimidation, or sexual misconduct will be subject to disciplinary action.

Legal Reference:

Title IX of the Educational Amendments, 20 U.S.C. §1681, et. seq.

34 CFR 106, Nondiscrimination on the Basis of Sex in Education Programs