

BAKERSFIELD CITY SCHOOL DISTRICT

EDUCATION CENTER, 1300 BAKER STREET
BAKERSFIELD, CALIFORNIA 93305-4399
(661) 631-4600



ADDENDA:

District Parent and Guardians Annual Notification

District Employee Handbook and Applications

School Site Student Handbooks (which also serves as Parent Handbook and Welcome Packet)

Staff Handbook

Athletic Recruitment and Participation Materials

Flyers, Brochures, and Trifolds (which advertise and inform students and parents/guardians about clubs, activities, and programs either extra-/co-curricular and/or academic)

DATE: December 18, 2019

TO: Staff, Students and Parents/Guardians

FROM: Tim Fulenwider, Ed. D., Director, Instructional Support Services Division

RE: Revised District Nondiscrimination Statement

District Student Sexual Harassment Board Policy

District Release of Information Statement

PURPOSE:

This memorandum serves as a notification of changes to Bakersfield City School District's Guide for Parents and Students, District Employee Handbook and Applications, School Site Student and Athletic Handbooks, flyers, brochures, and trifolds which advertise and inform students and parents/guardians about clubs, activities, and programs either extra-/co-curricular and/or academic. The District has added:

- A revision to the nondiscrimination statement, which is applicable to all District programs, their associated documents, and has been revised within the following policies:
 - BP 300.63, Nondiscrimination in District Programs
 - BP 500.49, Nondiscrimination in Employment
 - BP 600.03, Student Wellness
 - BP 601.14, Nondiscrimination/Harassment
 - BP 605.03, Uniform Complaint Procedures
- The addition of the full sexual harassment policy to students and parents/guardians thru the Guide for Parents and Students, and employees thru The Advisory Bulletin (TAB)

This information was added and is being distributed in accordance with California Education Code and at the request of the Federal Program Monitoring Review team

In addition the District has chosen to add a clarifying statement to the Guide for Parents and Students regarding release and notification of student records.

DISTRICT NON-DISCRIMINATION STATEMENT

The Bakersfield City School District (BCSD) is committed to equal opportunity for all individuals in education and in employment. BCSD prohibits discrimination, harassment, intimidation, and bullying in any employment practice, education program, or educational activity on the basis and/or association with a person or group with one or more of these actual or perceived characteristics of age, race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identifications, religion, pregnancy, marital status, parental status, physical disability, mental disability, sex (including sexual harassment), sexual orientation, gender, gender identity, gender expression, medical information, genetic information, homelessness, foster status, military veteran status, political affiliation or any other basis prohibited by California state and federal nondiscrimination laws consistent with Education Code 200, 220 and 234.1, Penal Code 422.55, Government Code 11135, and Title IX. Not all bases of discrimination will apply to both education services and employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District's Chief Compliance and Title IX Officer, Erin Johnston, by phone at (661) 631-4663, by email at johnstone@bcsd.com, or in person at 1300 Baker Street, Bakersfield, CA 93305. Copies of BCSD's Uniform Complaint policy, Sexual Harassment policy, and Nondiscrimination policies are available upon request.

Title IX Coordinator Contact Information:

Erin Johnston
Coordinator I, Human Resources
1300 Baker Street, Bakersfield, CA 93305
(661) 631-4663
johnstone@bcsd.com

DISTRICT STUDENT SEXUAL HARASSMENT POLICY

Book	BCSD Board Policies
Section	0600 Students
Title	SEXUAL HARASSMENT OF OR BY STUDENTS
Code	0601.06
Status	Active
Adopted	June 8, 1993
Last Revised	October 22, 2019

The Governing Board is committed to maintaining a safe, healthy, and secure school environment that is free from harassment and discrimination. The Board prohibits, at school or at school-sponsored or school-related activities, sexual harassment targeted at any student by anyone. 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 Governing Board intends to establish and maintain a climate of equity and caring in each school. Students must (a) demonstrate respect for each other, (b) refrain from coercion or force to obtain compliance from others, and (c) not discriminate on the basis of gender. Students are prohibited by this policy and California law from engaging in unlawful sexual harassment.

The District strongly encourages any student who feels that they are being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who has experienced off-campus sexual harassment that has a continuing effect on campus, to immediately

contact their 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. Once notified, the principal or compliance officer shall take the steps to investigate and address the allegation, as specified in the accompanying administrative regulation.

(cf. BB 100.12 – Values, Vision, Mission, and Superintendent Priorities)

(cf. BP 300.13 – Complaints Concerning District Employees)

(cf. BP 300.63 – Nondiscrimination in District Programs and Activities)

(cf. BP 400.56 – Comprehensive Health Education)

(cf. BP 500.38 – Sexual Harassment)

(cf. BP 600.04 – Positive School Climate)

(cf. BP 601.01 – Conduct of Pupils)

(cf. BP 601.02 – Bullying)

(cf. BP 601.14 – Nondiscrimination/Harassment)

(cf. BP 603.07 – Child Abuse and Neglect Reporting Procedures)

(cf. BP 605.03 – 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 instruction and 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 instances of sexual harassment, even where the 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 receive, investigated, or resolved.
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students.
6. Information about the District's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made.
7. Information about the rights of students and parents/guardians to file a criminal complaint, as applicable, including the right to file a civil or criminal complaint while the District investigation of a sexual harassment complaint continues.
8. A clear message that, when needed, the District will take interim measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment

Complaint Process

The Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated. Complaints regarding sexual harassment shall be investigated and resolved in accordance with law and District procedures specified in Administrative Regulation 605.03 – Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that

complaints of sexual harassment can be filed under Administrative Regulation 605.03 and where to obtain a copy of the procedures.

(cf. BP 605.03 – Uniform Complaint Procedures)

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.

Disciplinary Measures

Upon investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy and shall be subject to disciplinary action. For students in grades 4 through 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. BP 601.04 – Suspension and Expulsion/Due Process)

(cf. BP 601.07 – Discipline)

(cf. BP 606.06 – Suspension and Expulsion/Due Process [Students with Disabilities])

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall have his/her employment terminated in accordance with applicable law, and the applicable collective bargaining agreement.

(cf. BP 500.38 – Sexual Harassment)

Confidentiality and 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 its schools.

(cf. BP 300.11 – District Records)

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 (Title 5, California Code of Regulations, Section 4964).

(cf. BP 300.49 – Unauthorized Release of Confidential/Privileged Information)

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
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CODE OF REGULATIONS, TITLE 5

4600-4670	Uniform complaint procedures
4900-4965	Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 20

1221	Application of laws
1232g	Family Educational Rights and Privacy Act
1681-1688.1	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

Other References:

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) 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 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

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Q&A on Campus Sexual Misconduct, September 2017
Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
Dear Colleague Letter: Title IX Coordinators, April 2015
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, January 2001

Policy Adopted June 8, 1993

Revision Adopted March 11, 1997

Revision Adopted May 28, 2002

Revision Adopted August 28, 2012

Revision Adopted September 22, 2015

Revision Adopted October 22, 2019

AR 601.06 Sexual Harassment of or by Students

Administrative Regulations

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 Administrative Regulation 605.03, Uniform Complaint Procedures. The coordinator/compliance officer(s) may be contacted at:

Coordinator I, Human Resources
1300 Baker Street
Bakersfield, CA 93305
661-631-4663
johnstone@bcsd.com

Sexual Harassment Defined

Prohibited sexual harassment; includes, but is not limited to: unwelcome sexual advances, requests for sexual favors, and other 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 Section 212.5; Title 5, California Code of Regulations, Section 4916):

1. 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.
2. Submission to, or rejection of, the conduct by the student is used as the basis for academic decisions affecting the student.
3. Submission to the conduct is explicitly or implicitly made a term or a condition of student's academic status, or progress.
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. BP 600.04 – Positive School Climate)

(cf. BP 601.01 – Conduct of Pupils)

(cf. BP 601.02 – Bullying)

(cf. BP 601.14 – Nondiscrimination/Harassment)

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. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions.
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.
12. Electronic communications containing comments, words, or images described above.

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of District policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

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 Section 48980; Title 5, California Code of Regulations, Section 4917).
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 Section 231.5).

3. Be provided as part of any orientation program conducted for new students at the beginning of each grading period or summer session (Education Code Section 231.5).
4. Appear in any school or District publication that sets forth the schools or District's comprehensive rules, regulations, procedures and standards of conduct (Education Code Section 231.5).
5. Be included in any school student handbook.
6. Be provided to employees and employee organizations
7. A copy of the District's sexual harassment policy and regulation shall be posted on District and school web sites.

(cf. BP 300.68 – Social Media)

(cf. BP 500.50 – District and School Web Sites)

Reporting Process and Complaint Investigation and Resolution

Any student who believes that they have been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to their 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 above. In addition, any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report their observations 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 to the Superintendent or designee who shall determine who will investigate the complaint.

When a report or complaint of sexual harassment involves off-campus conduct, the principal shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the principal determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

When a verbal or informal 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. Regardless of whether a formal complaint is filed, the principal or compliance officer shall take steps to investigate the allegations and, if sexual harassment is found, shall take prompt action to stop it, prevent recurrence, and address any continuing effects.

If a complaint of sexual harassment is initially submitted to the principal, the principal 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 Administrative Regulation 605.03, Uniform Complaint Procedures.

In investigating a sexual harassment complaint, evidence of past sexual relationships of the victim shall not be considered, except to the extent that such evidence may relate to the victim's prior relationship with the respondent.

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 to the Superintendent or designee who shall determine who will investigate the complaint.

(cf. BP 603.07 – Child Abuse and Neglect Prevention and Reporting)

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 (Title 5, California Code of Regulations, Section 4964).

However, when a complainant or victim of sexual harassment notifies the District of the harassment but requests confidentiality, the compliance officer shall inform the complainant that the request may limit the District's ability to investigate the harassment or take 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. BP 300.49 – Unauthorized Release of Confidential/Privileged Information)
(cf. BP 605.07 – Pupil 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 their 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 the complainant. 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.

Policy Approved June 8, 1993

Revision Approved March 11, 1997

Revision Approved May 28, 2002

Revision Approved August 28, 2012

Administratively Approved October 27, 2015

Administratively Approved October 22, 2019

STATEMENT REGARDING RELEASE AND NOTIFICATION OF STUDENT RECORDS

Unless the District is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, the District shall notify parents or guardians and eligible students, and receive their written consent, prior to the release of a student's personally identifiable information.