

ADMINISTRATIVE CIRCULAR NO. 28
Legal Services Division

SAN DIEGO UNIFIED SCHOOL DISTRICT

Date: September 20, 2017

To: All Site Administrators

Subject: TITLE IX PROCESS FOR INVESTIGATING SEXUAL HARASSMENT REPORTS AND STUDENT NONDISCRIMINATION AND SEXUAL HARASSMENT POLICY POSTING

Department and/or Persons Concerned: Site Administrators

Due Date: Complete and return Attachment 2 by October 6, 2017

Reference: Title IX, Administrative Procedures 0112 and 1700

Action Requested:

- 1) Post the Student Nondiscrimination and Sexual Harassment Policy in several prominent locations throughout campus.
- 2) Follow the procedure outlined in this circular for ALL reports of student sexual harassment.

Brief Explanation: In order to maintain compliance with Title IX, site administrators are required to post the Student Nondiscrimination and Sexual Harassment Policy and follow district protocol for ALL reports of sexual harassment as outlined herein.

Post the Student Nondiscrimination and Sexual Harassment Policy (Attachment 1)

- All sites are required to permanently post the Student Nondiscrimination and Sexual Harassment Policy (Attachment 1) in the main administration building or other area of the school site visible to students. “Prominent location” means the main administrative building or other area where notices regarding the school’s rules, regulations, procedures, and standards of conduct are posted.
- Complete Attachment 2 with the name of the school and the name and position of the employee responsible for posting the policy to certify the policy is posted in a prominent location. . Return the form to the Title IX office by fax to 619-725-5529 or email to Lynn Ryan (lryan@sandi.net).
- All site student handbooks or new-student orientation packets must include the district’s Student Nondiscrimination and Student Sexual Harassment Policy. The exact wording of the policy is essential. The policy is available on-line in English and Spanish languages, and individual master copies (PDF format) can be obtained on the district web page under About/Administrative/Policies & Procedures/Title IX Educational Equality/Resources.
- Discuss the nondiscrimination and sexual harassment policies with students as part of orientation programs and beginning-of-the-year assemblies or classroom presentations for all students.

- Provide a copy of and discuss the Nondiscrimination and Student Sexual Harassment Policy as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.
- Provide a copy of the Student Sexual Harassment Policy to all school employees at the beginning of each school year. Inform all school employees they are “Required Reporters” of sexual harassment and that ALL sexual harassment is to be reported to an administrator or designee.

Reports of Student Sexual Harassment

- 1) All “Required Reporters” must report suspected sexual harassment (including sexual violence) to an administrator or designee. All school employees are “Required Reporters.”
- 2) ALL formal and informal reports of student sexual harassment received by an administrator or designee MUST be reported to the Title IX office (via telephone or email).
 - Call (619) 725-7225 or
 - Email to Lynn Ryan (lryan@sandi.net) - Include the date of the incident, the date you received the report of sexual harassment, students’ name(s), grade levels, and a short summary of the allegation.
 - DO NOT wait until the investigation is complete.
- 3) Immediately implement interventions to protect the accuser during the investigation, i.e. separate students, change travel paths, call parents and inform of allegations, have teacher separate in class, etc.
- 4) ALL reports of student sexual harassment must be investigated. Launch an independent investigation. Administrative Circular No. 48 posted in February 2016 outlines the “Site Process for Investigations.”
 - If appropriate, notify School Police Services of the allegations. Note: Your investigation is independent from the police, you may work in conjunction with them and sit in on their investigation, but you are required to conduct an independent investigation and make an independent finding based on the “preponderance of the evidence” (what is more likely to have happened than not).
 - Contact parent/guardian to inform of the allegations and pending investigation.
 - Tell parent/guardian you will follow up with written notification (letter) outlining the report and investigation outcome within ten (10) school days.
 - Advise parent/guardian of their right to file a formal complaint. Administrative Procedure 1700 and the form for doing so will be included with the written notification (letter).
- 5) Sexual Harassment that is also bullying requires the completion of AP 638, Attachment 2, Bullying and Intimidation Incident School Investigation Report Summary.

Bullying (as defined in AB 1156) is **severe or pervasive physical or verbal acts or conduct**, including communications made in writing or by means of an electronic act, that has the effect of or can reasonably be predicted to have the effect of causing a reasonable student to:

- be in fear of harm to his or her person or property;
 - experience a substantially detrimental effect on his or her physical or mental health;
 - experience substantial interference with his or her academic performance; or
 - experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.
- 6) Written notification of the investigation and outcome is to be sent to the parent or guardian (or student if over 18) of the accuser and accused within ten (10) school days of the site's receipt of the report of sexual harassment. Letter templates are available through the Staff Portal under Departments/Title IX/Support Materials. Consult with the Title IX Coordinator regarding which templates are appropriate for the circumstances, or for assistance completing the letters.
- Send the letters regular mail or, if you are having meetings with the parents/guardians, you may hand deliver them. Include Administrative Regulation (AR) 0410, Administrative Procedure (AP) 1700, and 1700 attachment 1, with the letters.
 - Scan and email copies of the finalized, signed letters to the Title IX office, lryan@sandi.net.
 - Follow up with students after implementation of interventions and remedies.

Formal Complaints and Uniform Complaint Procedure

Formal sexual harassment complaints should be received on the district's Uniform Complaint form (AP 1700, attachment 1). A written complaint (not on the Uniform Complaint form) stating it is a "formal" or "Uniform Complaint" is also acceptable. Formal complaints require a response from the Uniform Complaint Office following specific timelines. If a Uniform Complaint Form or formal letter of complaint alleging sex-based harassment or discrimination is received at a school site directly from a student, parent or guardian, district employee, etc. immediately call the Title IX office and forward a copy of the complaint. If it is the site's first notification of the incident, the report must be immediately investigated and the protocol in the *Reports of Student Sexual Harassment* section of this circular must be followed.

In the event a formal written complaint is filed, documentation (witness statements, evidence, interview notes, police incident numbers, etc.) may be required during the investigation. The Uniform Complaint Compliance Office may request this documentation and launch an independent investigation upon receipt of a Uniform Complaint. It is recommended you keep a file for each report and investigation of sexual harassment at least three years. Uniform Complaints must be filed no later than six months from the date the complainant first obtained knowledge of the alleged discrimination, harassment, intimidation, or bullying. Complaints may also be filed through the Office for Civil Rights (OCR) or other government agencies, so keeping copies of your files for reports of sexual harassment is important.

Should you have questions concerning this circular please email lryan@sandi.net or call (619) 725-7225.

Lynn A. Ryan
Title IX Coordinator

ADMINISTRATIVE CIRCULAR NO. 28
Legal Services Division

Page 4

APPROVED:



Andra Donovan
General Counsel
Legal Services Division

Attachments (3)

Distribution: Lists A, D, E and F

SAN DIEGO UNIFIED SCHOOL DISTRICT
Student Nondiscrimination and Sexual Harassment Policy

ATTACHMENT 1

NOTICE OF STUDENT NONDISCRIMINATION

San Diego Unified School District is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination by reason of the following actual or perceived characteristics: actual or perceived sex, sexual orientation, gender, gender identity, gender expression, ethnic group identification, race, ancestry, national origin, religion, color and mental or physical disability, nationality, age, creed, or marital status, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics. Discrimination is also prohibited based on a student's actual or perceived potential parental, family, or marital status.

Students who violate this policy may be subject to discipline, up to and including expulsion, in accordance with district policy, administrative procedure and state law.

Employees who violate this policy shall be subject to discipline up to and including dismissal. Any disciplinary action shall be in accordance with applicable federal, state and/or collective bargaining agreements.

STUDENT SEXUAL HARASSMENT POLICY

San Diego Unified School District is committed to making the schools free from sexual harassment and discrimination. Sexual harassment is a form of sex discrimination under Title IX of the Education Amendments of the Civil Rights Act of 1972 and is prohibited by both federal and state laws. The district prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. Sexual harassment is defined in Education Code to mean unwelcome sexual advances; requests for sexual favors; or verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting. The superintendent or his/her designee shall ensure that district students receive age-appropriate instruction about their rights to be free from sexual harassment, the district procedure for reporting and investigating complaints of sexual harassment including with whom a complaint should be filed.

The district prohibits conduct that has the purpose or effect of having a negative impact on the individual's work or academic performance, or that is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, or offensive educational environment.

The district further prohibits sexual harassment that conditions a student's status, progress, benefits, services, honors, program or activities based on submission to such conduct.

Any student who feels that he/she is being, or has been, sexually harassed by a school employee, another student, or a non-school employee at school or at a school-related event, shall immediately contact his/her teacher or any other district employee. An employee who receives such a complaint shall report it in accordance with administrative procedures.

Employees who violate this policy shall be subject to discipline up to and including dismissal. Any disciplinary action shall be in accordance with applicable federal and state laws and/or collective bargaining agreements.

Students who violate this policy may be subject to discipline, up to and including expulsion, in accordance with district policy, administrative procedure and state law.

The district believes that it can resolve issues of harassment and discrimination at the school site.

TO FILE A FORMAL DISCRIMINATION OR SEXUAL HARASSMENT COMPLAINT

1. **Filing a complaint:** A complaint may be filed by a student or parent/guardian by obtaining a copy of the Uniform Complaint Form (AP 1700) and Administrative Procedure 0112 from the school or the district's Legal Office. Remedies available outside of the district are listed in this procedure.
2. **Investigation:** San Diego Unified School District will immediately undertake an effective, thorough, and objective investigation of the harassment and/or discrimination allegations and provide a written report within sixty (60) days from the date the complaint is filed. The Superintendent or his/her designee shall ensure that any complaint received is investigated in accordance with district administrative procedures and that school personnel take immediate steps to intervene, when safe to do so, when they witness any act of harassment.
3. **Action:** When an allegation of sexual harassment is validated by the investigation and disciplinary action is necessary, the superintendent will determine the appropriate course of action, to prevent reoccurrence and follow up with the harassed student, depending upon whether the harasser is a student, staff member or agent of the district. If the complaint of sexual harassment is validated the superintendent and/or designee shall take prompt, appropriate action to end the harassment and to address the effects on the victim.

Complaints will be kept confidential. The person filing the complaint may also pursue action in civil court.

The district prohibits retaliation against any person who complains, testifies, assists or participates in district complaint procedures.

A student who has a complaint of sexual harassment or discrimination shall immediately contact his/her teacher or any other district employee. If the complaint cannot be resolved, or at any time the student may contact:

Lynn A. Ryan, Title IX Coordinator
Eugene Brucker Education Center
4100 Normal St., Room 2129
San Diego, CA 92103
lryan@sandi.net

For questions or additional information, call 619-725-7225.

DISTRITO ESCOLAR UNIFICADO DE SAN DIEGO
Políticas estudiantiles contra discriminación, acoso, y hostigamiento

ATTACHMENT 1

AVISO DE NO DISCRIMINACIÓN A LOS ESTUDIANTES

El Distrito Escolar Unificado de San Diego se compromete a la igualdad de oportunidades en la educación para todas las personas. Los programas y actividades del distrito deben estar libres de discriminación a causa de las siguientes características reales o percibidas: sexo, orientación sexual, género, identidad de género, expresión de género, identificación de grupo étnico, raza, genealogía, origen nacional, religión, color, discapacidad mental o física, nacionalidad, edad, credo, o estado civil o en virtud de la asociación de una persona con otra persona o grupo con una o más de éstas características reales o percibidas. También se prohíbe la discriminación basada en el estado parental, familiar o marital, real o potencial de un estudiante.

Los estudiantes que violen esta política quedarán sujetos a las medidas disciplinarias, incluyendo la expulsión, de acuerdo a la política del distrito, procedimientos administrativos y a las leyes estatales.

Los empleados que violen esta política quedarán sujetos a las medidas disciplinarias, incluyendo el despido, cualquier medida disciplinaria debe estar de acuerdo con las leyes federales y estatales pertinentes y/o con los acuerdos de convenios colectivos.

POLÍTICA DE ACOSO SEXUAL DE LOS ESTUDIANTES

El Distrito Escolar Unificado de San Diego se compromete a eliminar el acoso sexual y la discriminación en las escuelas. El acoso sexual es una forma de discriminación sexual bajo el Título IX de las Enmiendas Educativas de la Ley de Derechos Civiles de 1972 y está prohibido tanto en la ley federal como estatal. El distrito prohíbe el acoso sexual a estudiantes por otros estudiantes, empleados, u otras personas, en la escuela o en actividades organizadas o relacionadas con la escuela. El acoso sexual se define en el Código de Educación como insinuaciones sexuales no deseadas, solicitud de favores sexuales, conducta verbal, visual, o física de naturaleza sexual hecha por cualquier persona del o dentro del ambiente educativo. La Superintendente o su designado debe garantizar que los estudiantes del distrito reciban educación apropiada a su edad sobre su derecho de ser libres de acoso sexual y sobre el procedimiento del distrito para informar e investigar quejas de acoso sexual, incluyendo a quién se debe presentar la queja.

El distrito prohíbe la conducta cuyo resultado o propósito tenga un efecto negativo en el trabajo o rendimiento académico de las personas o que sea suficientemente severa, persistente o generalizada para crear un ambiente educativo intimidante, hostil, u ofensivo.

El distrito prohíbe además acoso sexual por el cual el estado, progreso, beneficios, servicios, honores, programa o actividades de un estudiante dependan de que éste se someta a dicha conducta.

Cualquier estudiante que sienta que está siendo o ha sido acosado/a sexualmente por un empleado de la escuela, otro estudiante, u otra persona no empleada en la escuela, o en un evento relacionado con la escuela, deberá contactar inmediatamente a su maestro o a cualquier otro empleado del distrito. Un empleado que recibe tal queja deberá reportarla de acuerdo con los procedimientos administrativos.

Los empleados que violen esta política quedarán sujetos a medidas disciplinarias que pueden incluir el despido. Cualquier acción disciplinaria deberá cumplir con las leyes federales y estatales que sean pertinentes y/o con los acuerdos de convenios colectivos.

Los estudiantes que violen esta política pueden quedar sujetos a medidas disciplinarias que pueden incluir la expulsión, de acuerdo con la política del distrito, los procedimientos administrativos y la ley estatal.

El distrito considera que se pueden resolver los problemas de acoso y discriminación en el plantel escolar.

CÓMO PRESENTAR UNA QUEJA FORMAL POR DISCRIMINACIÓN, O ACOSO SEXUAL

- 1. Presentar una queja:** Los estudiantes o padres/tutores pueden presentar una queja obteniendo una copia de la Forma de Queja Uniforme (AP 1700) y del Procedimiento Administrativo 0112 en la escuela o en la Oficina de Servicios Legales del distrito. Los remedios disponibles fuera del distrito están enumerados en este procedimiento.
- 2. Investigación:** El Distrito Escolar Unificado de San Diego conducirá de inmediato una investigación eficiente, detallada y objetiva de los alegatos de acoso y/o discriminación y proporcionará un informe escrito dentro de un período de sesenta (60) días a partir de que se presente la queja. La Superintendente o su designado deben garantizar que cualquier queja recibida sea investigada de acuerdo con los procedimientos administrativos y de que el personal de la escuela tome medidas inmediatas para intervenir, cuando sea seguro hacerlo, si son testigos de cualquier acto de acoso.
- 3. Acción:** Si la investigación valida los alegatos de acoso sexual y se hace necesaria una medida disciplinaria, la Superintendente determinará el curso apropiado de la medida, para prevenir la reincidencia y hará seguimiento con el/la estudiante acosado/a, dependiendo de si el acosador es un estudiante, miembro del personal, o agente del distrito. Si se valida la queja de acoso sexual, la Superintendente y/o su designado tomará medidas inmediatas y apropiadas para terminar el acoso y para tratar los efectos en la víctima.

Las quejas se mantendrán confidenciales. La persona que presenta la queja también puede perseguir el caso en un tribunal civil.

El distrito prohíbe las represalias en contra de cualquier persona que se queje, testifique, asista o participe en los procedimientos de queja del distrito.

Un estudiante que tiene una queja de acoso sexual o discriminación debe contactar de inmediato a su maestro o a cualquier otro empleado del distrito. Si la queja no puede resolverse, o en cualquier momento, el estudiante puede contactar a:

Lynn A. Ryan, Title IX Coordinator
Eugene Brucker Education Center
4100 Normal St., Room 2129
San Diego, CA 92103
lryan@sandi.net

Si tiene dudas o desea información adicional, llame al 619-725-7225.



San Diego Unified
SCHOOL DISTRICT

Lynn A. Ryan
Title IX Coordinator

ATTACHMENT 2

MEMORANDUM

TO: Lynn Ryan, Title IX Coordinator

FROM:

DATE:

**SUBJECT: THE STUDENT NONDISCRIMINATION AND SEXUAL
HARASSMENT POLICY HAS BEEN POSTED IN A PROMINENT
LOCATION ON CAMPUS**

School

Date Posted

Employee (Please print name)

Position

Signature of Employee

RETURN BY: October 6, 2017
Scan and email to Lynn Ryan at lryan@sandi.net