**Students** BP 5145.7(a)

**SEXUAL HARASSMENT**

The Governing Board is committed to maintaining an educational environment that is free from harassment. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

**Instruction/Information**

The Executive Director or designee shall ensure that all College and Career Advantage (CCA) 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 gender

2. A clear message that students do not have to endure sexual harassment

3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained

4. Information about the person(s) to whom a report of sexual harassment should be made

*(cf. 5131.5 - Vandalism, Theft and Graffiti)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

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

**Complaint Process**

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the Executive Director or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the Executive Director or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the Executive Director or any other CCA employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the nondiscrimination coordinator or the Executive Director or designee.

 BP 5145.7(b)

**SEXUAL HARASSMENT** (continued)

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

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

The Executive Director or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the Executive Director or designee finds that sexual harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The Executive Director or designee shall also advise the victim of any other remedies that may be available. The Executive Director or designee shall file a report and refer the matter to law enforcement authorities, where required.

*(cf. 1312.1 - Complaints Concerning CCA Employees)*

**Disciplinary Measures**

Any student who engages in sexual harassment of anyone 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 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.

**Record-Keeping**

The Executive Director or designee shall maintain a record of all reported cases of sexual harassment to enable CCA to monitor, address and prevent repetitive harassing behavior in its schools.

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)

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

*Legal Reference: (see next page)*

 BP 5145.7(c)

**SEXUAL HARASSMENT** (continued)

*Legal Reference:*

*EDUCATION CODE*

*200-262.4 Prohibition of discrimination on the basis of sex*

*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*

*CODE OF REGULATIONS, TITLE 5*

*4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance*

*UNITED STATES CODE, TITLE 20*

*1681-1688 Title IX, Discrimination*

*UNITED STATES CODE, TITLE 42*

*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*

*106.1-106.71 Nondiscrimination on the basis of sex in education programs*

*COURT DECISIONS*

*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) 118 S.Ct. 1989*

*Nabozny v. Podlesny, (1996, 7th Cir.) 92 F.3d 446*

*Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447*

*Oona R.-S. etc. v. Santa Rosa City Schools et al, (1995) 890 F.Supp. 1452*

*Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143*

*Clyde K. v. Puyallup School District #3, (1994) 35 F.3d 1396*

*Patricia H. v. Berkeley Unified School District, (1993) 830 F.Supp. 1288*

*Franklin v. Gwinnet County Schools, (1992) 112 S. Ct. 1028*

*Kelson v. City of Springfield, Oregon, (1985, 9th Cir.) 767 F.2d 651*

*Management Resources:*

*OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL*

*Protecting Students from Harassment and Hate Crime: A Guide for Schools, January 1999*

*OFFICE OF CIVIL RIGHTS' PUBLICATIONS*

*Revised Sexual Harassment Guidance, January 2001*

*Sexual Harassment Guidance, March 1997*

*WEB SITES*

*OCR: http://www.ed.gov/offices/OCR*

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