

Administrative Guidelines for Responding to Complaints of Peer Harassment by Students

The school will investigate all complaints of harassment at school or at school related events and, if substantiated, take steps reasonably calculated to stop the harassment and prevent its recurrence. Once the school has learned of alleged incidents of harassment, it may not choose to ignore them, even if the complainant or victim informs the school that he/she wishes the school not to address the matter. Every allegation of harassment will be investigated.

The school will respond to complaints of harassment in a reasonable, timely, and effective manner. What is reasonable, timely and effective depends on the individual circumstances of the complaint including, but not limited to, the nature of the allegations and ages of the students involved. Therefore, while the following may serve as general guidelines for responding to an incident of harassment, the guidelines must be adapted as necessary to effectively respond to the complaint.

I. Pre-Investigation

When the school has notice of allegations of harassment, the Superintendent should be informed as soon as possible. Consideration should also be given to the need to contact the Coordinator for Title IX/Section 504 of the Rehabilitation Act/Chapter 622, and/or legal counsel for assistance in responding to a complaint.

Even before fully investigating allegations of harassment, school personnel should consider whether there is a need to take immediate steps to protect the alleged victim from further possible harassment. In taking any such action, however, the rights of both the alleged victim and alleged perpetrator must be considered.

II. Investigation

Timeliness. The investigation should be started as soon as possible following notice or knowledge of alleged harassment.

Written statement of the complaint. It is important to obtain as many facts as possible, starting with gathering information from the complainant, including:

What specifically happened, **Who** committed the alleged act, **Who** was present or may have information about the event, **When** the event occurred (date, time of day), **Where** the event occurred.

It is helpful to have these facts in writing. If age appropriate, the complainant may be asked to put the complaint in writing and to sign and date it. If the complainant cannot or chooses not to write a complaint, the investigator should record the allegations, read them to the complainant to

confirm accuracy, and ask the complainant to sign the document. If the complainant cannot or chooses not to sign, the investigator should sign and date the document her/himself.

Interviews. Once the allegations of the complainant are established, interview of the alleged perpetrator and/or possible witnesses may be the next step. The investigator will keep notes of the interviews. In some circumstances, it may be advantageous to have another staff member present. If age appropriate, requesting written statements from witnesses or the alleged perpetrator may also be considered.

Confidentiality. The confidentiality of the complainant and the other witnesses must be maintained to the extent possible given the school's obligation to investigate the matter. Note that when initially questioning witnesses or the accused it is not necessary, nor is it advisable, to state the name of the complainant (or victim). Under general principles of school law, there is no right for a student to confront his/her accuser except at a hearing to consider imposing a suspension of more than ten days.

Retaliation. If appropriate, the investigator will remind the alleged perpetrator and witnesses that retaliation against persons whom they believe might have reported the incident is strictly prohibited and could result in disciplinary action.

III. Determination

School personnel must weigh all of the facts objectively to determine whether the alleged event occurred and, if it did, whether it constituted harassment. The determination must be based upon all of the facts and circumstances, and the perspective of a reasonable person with the characteristics upon which the harassment was based. [See Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991)] The “reasonable person” standard as applied to children is “that of a reasonable person of like age, intelligence, and experience under like circumstances.”

IV. Corrective Action

If harassment is substantiated, the school must take steps reasonably calculated to prevent recurrence and ensure that the victim is not restricted in participating in school or in benefiting from school activities. As with the investigation, the response should be individually tailored to all of the circumstances, including the nature of the harassment and the age of the students. The following are suggestions for steps that may be taken:

Provide relevant educational activities for individual students or groups of students (guidance counselors and others in the school setting who have been trained in working with students on interpersonal issues may be helpful in providing such programs);

Arrange for communication between the parties, if appropriate, to assist them in resolving issues which have arisen between them;

Provide counseling;

Impose disciplinary action, including but not limited to, a written warning, suspension and expulsion from school, subject to applicable procedural requirements (as with other matters of student misconduct, it may sometimes be appropriate to involve the parents of students.)

V. Closing the Complaint.

The investigator will give the complainant a brief statement of whether or not the complaint was substantiated and, if applicable, what action was taken to prevent recurrence of harassment. It is not appropriate to inform the complainant of specific disciplinary action taken against a student.

The investigator will retain notes and other documents relating to the investigation in a confidential file.

The investigator will file a report with the Coordinator for Title IX/Section 504/Chapter 622 containing the name of the complainant, the date of the complaint, investigator, school, a brief statement of the nature of the complaint, the outcome of the investigation, and the action taken.

The investigator will contact the complainant within a reasonable time period to determine whether there has been any recurrence of harassment, if appropriate.