

NICASIO SCHOOL DISTRICT

Board Policy

Series 5000: Students

BP 5145.7

STUDENT SEXUAL HARASSMENT POLICY

Purpose of Policy

It is the position of this Board that sexual harassment is unlawful and will not be tolerated. It is a violation of this policy for any employee, agent, student, or party with which the District has a cooperative agreement, to engage in sexual harassment.

It is the policy of the Governing Board of the Nicasio School District to provide an educational environment free of sexual harassment. To accomplish this purpose, the policy is designed to secure, at the earliest level possible, an appropriate resolution to an allegation of sexual harassment.

This policy is intended to supplement, and not replace, any applicable state or federal laws and regulations. Complaints under these laws and regulations shall be processed through the procedures established by the appropriate state and/or federal agencies.

Definition of Sexual Harassment

As defined by Education Code Section 212.5, "Sexual harassment means unwelcome sexual conduct including advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
- (d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution."

Specifically, sexual harassment may occur as a pattern of degrading sexual speech or actions ranging from verbal or physical annoyances or distractions to deliberate intimidations and frank threats or sexual demands. Examples of conduct which may constitute sexual harassment include, but are not limited to:

- (1) Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, touching, impeding or blocking movement, leering, gestures, display of sexually suggestive objects or pictures, or cartoons.
- (2) Among peers, continuing to sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction, among peers, is not considered sexual harassment.)
- (3) Within the educational environment, implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied as a condition of receiving sexual favors.
- (4) Within the educational environment, engaging in sexual behavior to control influence, or affect the educational opportunities, grades, and/or learning environment of a student.
- (5) Offering favors or education or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- (6) Any expression of sexual interest between adults and students, regardless of reciprocity is considered inappropriate and shall be subject to discipline under applicable state law.

Reporting Procedure

Any student who believes he or she has been sexually harassed by an employee, agent, or student of the District, should promptly report the facts of the incident(s) and the name of the individual involved to an adult staff member with whom they feel comfortable, and that person shall report the incident to the school site administrator or Superintendent. A written report of the alleged incident will be developed by the site administrator or Superintendent. A copy of the report, along with a copy of this policy, shall be mailed to the parent of the student who initiated the complaint.

All staff, upon personal knowledge of an incident of sexual harassment, are obligated to report it to the school principal. Failure to do so is a violation of this policy. Failure of staff to report student allegations of sexual harassment within three (3) school days is a violation of this policy.

Students who feel aggrieved because of unwelcome conduct that may constitute sexual harassment are not required to inform the person engaging in such conduct that the conduct is unwanted, offensive and must stop, but are encouraged to do so. An aggrieved individual is not required to complain to his or her instructor if that instructor is the individual who is harassing the student. Any individuals making a report may bring an advocate to assist them.

Filing Complaints With State and Federal Agencies

Aggrieved parties may wish to file complaints with other appropriate state and federal agencies, including:

U.S. Office for Civil Rights
50 United Nations Plaza, Room 239, San Francisco, CA 94102 (415) 556-7000

The State Fair Employment and Housing Commission
30 Van Ness Avenue, San Francisco, CA 94102, (415) 557-2005.

Confidentiality

An allegation of sexual harassment and the results of the investigation shall be kept confidential to the extent reasonably possible under the investigative process. The site administrator will inform the student making the report that the allegation and the results of the investigation shall be kept confidential to the extent reasonably possible under the investigation process. In addition, witnesses and those interviewed shall be informed of the confidential nature of the issue and the investigation as well as the reason for confidentiality. Anyone violating confidentiality by disclosing the nature of the allegation or the investigation to others shall be subject to disciplinary action.

Retaliation is Prohibited

The initiation of an allegation of sexual harassment, will not cause any reflection on the individual reporting the incident or witnesses nor will it affect such persons' future business dealings with the District, his or her employment, compensation or work assignments, or, in the case of students, grades, class section or other matters pertaining to his or her status as a student of any District programs. It shall be a violation of this policy to engage in such retaliation. An allegation of retaliation shall be considered as a separate incident, shall be investigated, and shall be subject to disciplinary action.

Time Limits

Allegations of sexual harassment shall be reported as soon as reasonably possible after the conduct in question has taken place.

Disciplinary Action

When an allegation of sexual harassment is supported by the investigation and/or disciplinary action is determined necessary, the Superintendent will determine what course of action is appropriate, depending upon whether the harasser is a student, staff member, or agent of the District.

Employees who violate this policy may be subject to discipline up to and including dismissal. Such disciplinary action shall be in accordance with applicable policies, laws, and/or collective bargaining agreements.

Students who violate this policy may be subject to discipline up to and including expulsion. Such disciplinary action shall be in accordance with board policy and state law.

Agents of the District who violate this policy may be subject to penalties and sanctions as may be available to the District, including termination of business relationships and contracts.

Investigation

The Superintendent is authorized to develop regulations by which reports of sexual harassment shall be addressed. Such process shall include an informal resolution process, an investigation, and an issuance of a summary report.

Appeal Procedures

Either the complaining party or the accused may appeal the summary report of the investigation to the Governing Board of the District. Appeals shall be made in writing within ten (10) business days from the date of issuance of the summary report. Procedures shall be set forth in the administrative regulations.

Training and Curriculum

To implement this policy Nicasio School District will provide training programs for staff and students.

Notification

There will be adequate notification of the policy to include public posting. The policy will be published in site handbooks and/or the District Summer Mailing.

Administrative Regulation

The Superintendent shall adopt, and from time to time may revise, further procedures as may be necessary to implement this policy and provide for a means of enforcing this policy. Such further procedures may include the following: posting and other means of distributing the policy; a process under which complaints will be handled, formally or informally.

Special Assistance

It is expected that questions may arise concerning this policy. For assistance in these matters, individuals may contact the Superintendent.

Current Legal references barring sexual harassment in education:

Title VII of the Civil Rights Act – 42 CUS Section 2000-e-2(a)(1)
California Fair Employment & Housing Act – Government Code Section 12940
Title IX of the Education Amendments of 1972 29 USC Section 1681 *et. seq.*
California Education Code, Section 200 *et seq.*