



## Clovis Swim Club Grievance Procedure

The **Clovis Swim Club** Grievance Procedure is subservient to CUSD Board Policy No. 9207 and provides swimmers, parents, coaches, club leaders and employees a system to address and report grievances in a productive, systematic way. Following these Procedures provides the appropriate parties a means to properly investigate, intervene, and take disciplinary action when needed.

### **WHERE TO REPORT:**

For issues dealing with sexual misconduct, sexual harassment and/or sexually explicit or inappropriate communication through social media:

- U.S. Center for SafeSport: 720-524-5640 or <https://safesport.i-sight.com/portal>

For issues dealing with physical abuse, emotional abuse, criminal charges and the use, sale or distribution of illegal drugs:

- USA Swimming Safe Sport: [safesport@usaswimming.org](mailto:safesport@usaswimming.org) or <https://fs22.formsite.com/usaswimming/form10/index.html>

For issues dealing with known or suspected child abuse:

- Fresno County Child Protection Hotline – 559-600-8320

For issues dealing with peer-to-peer bullying, coach-athlete bullying, parent issues, violations of the Clovis Swim Club Code of Conduct and violations of the Minor Athlete Abuse Prevention Policy.

- These issues are handled at the club level following the procedures outlined below.

### WHOM TO NOTIFY OF A GRIEVANCE (Chain of Command)

*Regarding the Conduct of a Swimmer* - Contact the swimmer's coach.

- Should a parent or swimmer feel another swimmer's conduct is inappropriate or violates the **Clovis Swim Club** Code of Conduct, the parent/swimmer should discuss these concerns with the coach of the swimmer responsible for the violation (Responsible Coach). This complaint should be made in person or in writing. Coaches will ensure the **Clovis Swim Club** head coach is notified of the complaint and will participate in assessing behavior.

*Regarding the Conduct of an Assistant or Age Group Coach* - Contact the Head Coach

- Should a parent or swimmer feel an Assistant or Age Group Coach's conduct is inappropriate or in violation of any Club policies or procedures, the parent/swimmer should notify the Head Coach of this violation. This complaint should be made in person or in writing. The Head Coach will ensure that appropriate Clovis Unified School District administration is notified of the complaint and will participate in assessing behavior.

*Regarding Conduct of Head Coach* – Notify the CUSD Assistant Superintendent for Educational Services.

- Should a parent or swimmer feel the Head Coach's conduct is inappropriate or violates any Club policies or procedures, the parent/swimmer should notify the CUSD Assistant



Superintendent for Educational Services of this violation. This complaint should be made in person or in writing.

*Regarding Parent or Official Conduct* - Notify the Head Coach

- Should a parent or swimmer feel another **Clovis Swim Club** parent's or an official's conduct is inappropriate or violates any Club policies or procedures, the parent/swimmer should notify the Head Coach of this violation in person or in writing.

**Note:** With the exception of issues which immediately affect the health and safety of swimmers, all matters should be discussed before or after a coaching session, as coaches should not be expected to deal with issues during water time.

#### HOW GRIEVANCES WILL BE HANDLED

*The Head Coach has the authority to impose penalties for infractions of the **Clovis Swim Club** Athlete, Parent and Coach Codes of Conduct or any behavior(s) they deem not conducive to the best interests of the Club or other swimmers. Consequences are at the discretion of CUSD staff and administration. Consequences may include, but aren't limited to, verbal warnings, dismissal from practice, contacting parents, temporary suspension from club activities and expulsion. Involved parties will be informed of the processes and range of potential consequences. The U.S. Center for SafeSport, USA Swimming and local law enforcement (if applicable) will be contacted within 24 hours if a coach, parent, or swimmer violates the SafeSport Code for the U.S. Olympic and Paralympic Movements, the USA Swimming Code of Conduct, Athlete Protection Policy, or local laws.*

1. Gathering Information: The appropriate individuals will contact the person who filed the grievance, and the person against whom the grievance is being filed, to ask questions about what happened. In addition, other witnesses may be contacted for more information. All information will be recorded on the **Clovis Swim Club** grievance procedure form.
2. Assessing Behavior: The behavior of the person(s) against which the grievance was brought, will be assessed using club policies and facility rules, USA Swimming Code of Conduct, USA Swimming Safe Sport policies, as well as applicable local and state laws.
3. Consequences will be given and disciplinary action will be taken, if appropriate. These consequences and disciplinary actions will be decided using the following general guidelines:
  - a. Nature of the misconduct
  - b. Severity of the misconduct
  - c. Prior disciplinary actions
  - d. Adverse effect of the misconduct
  - e. Application of the Code of Conduct

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## CLOVIS UNIFIED SCHOOL DISTRICT

### SCHOOL COMMUNITY RELATIONS

#### *Community Relations*

#### FORMAL COMPLAINTS REGARDING DISTRICT PERSONNEL AND PRACTICES

The process outlined by this administrative regulation shall be followed when filing complaints regarding District personnel and practices.

#### A. COMPLAINT PROCESS

##### 1. Informal Complaint

Pursuant to the Complaint Process Flow Chart (Section D), and if acceptable to the complainant, an informal complaint is initiated within five (5) business days of the alleged occurrence by discussing the incident or matter either with the employee involved in the situation or with the site administrator/department supervisor before filing a written complaint. The purpose of the informal complaint process is to allow the involved parties to resolve the issue through a consultation process rather than the formal complaint process.

##### 2. Formal Complaint

If the complaint cannot be resolved at the informal level, or if the complainant rejects the informal process, the complainant shall be provided with a Complaint Form [Exhibit No. 9207 (1)] and shall follow the process as set forth in the Complaint Process Flow Chart.

Within fifteen (15) business days of the alleged occurrence, the complainant should submit his/her Formal Complaint in writing using the District's Complaint Form [Exhibit No. 9207 (1)]. The complainant shall type or print, sign, date and submit the Complaint Form to the appropriate Assistant Superintendent or designee.

The complainant is not limited to only the Complaint Form. The complainant may write a letter of complaint or attach additional pages/documents to the Form. The complainant may request assistance from District staff when filing the complaint, if needed. If necessary, a meeting will be scheduled to discuss the complaint with the complainant.

##### 3. Appeal

If the complaint is not resolved to the complainant's satisfaction the complainant may submit an appeal to the Associate Superintendent, School Leadership or designee within ten (10) business days using the District's Appeal Form [Exhibit No. 9207 (2)]. A copy of the Complaint Form and the response from the Assistant Superintendent or designee should be attached when possible.

#### B. INVESTIGATION

1. When a Formal Complaint or an Appeal is filed, a thorough, objective, and equitable investigation will be conducted. The investigation may be assigned to staff or to outside persons or organizations. An outside investigator or investigators may be engaged by the Superintendent or designee depending on the nature and scope of the allegations. The term investigator includes a neutral fact finders or other professional knowledgeable about the law/programs that he/she is assigned to investigate.

## CLOVIS UNIFIED SCHOOL DISTRICT

2. The investigator(s) shall consult with all individuals reasonably believed to have relevant information, including the complainant and any witnesses to the misconduct, and victims of similar misconduct, if any, that the investigator(s) reasonably believes may exist.
3. When determining whether the alleged misconduct constitutes a violation, the investigator(s) should consider the totality of the circumstances including, as appropriate, but not limited to:
  - a. The nature of the alleged misconduct or violation.
  - b. How often the alleged misconduct or violation occurred.
  - c. Whether there were past incidents or continuing patterns of misconduct or violation.

### C. DECISION

#### 1. Formal Complaint

The appropriate Assistant Superintendent or designee shall respond in writing to the complainant within fifteen (15) business days from the date of the receipt of the Formal Complaint.

#### 2. Appeal

The Associate Superintendent, School Leadership or designee shall respond in writing to the complainant within fifteen (15) business days from the date of the receipt of the Appeal.

The District's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

### D. COMPLAINT PROCESS FLOW CHART

LEVEL	PRESENTS COMPLAINT TO	TYPE OF COMPLAINT	NUMBER OF BUSINESS DAYS TO FILE	NUMBER OF BUSINESS DAYS TO RESPOND
INFORMAL	EMPLOYEE OR SITE ADMINISTRATOR/ DEPARTMENT SUPERVISOR	INFORMAL DISCUSSION	WITHIN FIVE (5) DAYS OF ALLEGED OCCURRENCE	N/A
FORMAL	APPROPRIATE ASSIST. SUPT. OR DESIGNEE	FORMAL IN WRITING	WITHIN FIFTEEN (15) DAYS OF ALLEGED OCCURRENCE	FIFTEEN (15) DAYS FROM FILING
APPEAL	ASSOCIATE SUPT., SCHOOL LEADERSHIP OR DESIGNEE	APPEAL IN WRITING	WITHIN TEN (10) DAYS OF REPLY TO FORMAL COMPLAINT	FIFTEEN (15) DAYS FROM FILING

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### SCHOOL COMMUNITY RELATIONS

#### *Community Relations*

#### UNIFORM COMPLAINT PROCEDURES REGARDING PROGRAMS/DISCRIMINATION

In accordance with Board Policy and law, uniform complaint procedures shall be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, federal school safety plan requirements, non-compliance with laws relating to pupil fees, special education programs, Local Control Accountability Plans (LCAP), educational rights of foster and homeless youth, assignment to a course without educational content or to a course previously satisfactorily completed, reasonable accommodation for lactating pupils, required elementary instructional physical education minutes, graduation requirements for former juvenile court school students, After School Education and Safety, Agriculture Vocational Education, American Indian Centers and Early Childhood Program Assessments, bilingual education, California Peer Assistance and Review Programs for Teachers, compensatory education. Economic Impact Aid, English learner programs, Every Student Succeeds Act/No Child Left Behind (Titles I-VII), Regional Occupational Centers and Programs, State preschool, and Tobacco-Use Prevention Education.

The District shall also follow uniform complaint procedures when addressing complaints alleging unlawful discrimination, harassment, intimidation and bullying against any protected group as identified under the law including actual or perceived sex, sexual orientation, gender expression, gender identity, gender, ethnic group identification, race, ethnicity, ancestry, nationality, national origin, immigration status, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any District program or activity that receives or benefits from state financial assistance.

If the District finds merit in a complaint regarding pupil fees, LCAP, Education of pupils in foster care who are homeless, former juvenile court pupils now enrolled in a school district, reasonable accommodation for lactating pupils, course periods without educational content (grades nine through twelve), and physical education instructional minutes (grades one through eight), the District shall provide a remedy. In the case of complaints regarding course periods without educational content, reasonable accommodations to lactating pupils, education of pupils in foster care, pupils who are homeless, and former juvenile court pupils now enrolled in the District, the remedy shall go to the affected pupil. In the case of complaints regarding pupil fees, physical education instructional minutes and LCAP, the remedy shall go all affected pupils and parents/guardians. The District will attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all pupils, parents and guardians who paid pupil fees within one year prior to the filing of the complaint.

The Board acknowledges and respects every individual's right to privacy. The District ensures that the complainants are protected from retaliation and discrimination, harassment, intimidation and bullying complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

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Complaints alleging retaliation based on filing a complaint under the uniform complaint procedures shall also be addressed through these procedures.

The Governing Board designates the following Responsible District Officer to receive uniform complaints and ensure District compliance with law:

Associate Superintendent, School Leadership  
Clovis Unified School District  
1450 Herndon Avenue  
Clovis, CA 93611-0599  
(559) 327-9000

The Governing Board ensures that the Responsible District Officer is knowledgeable about the law and/or programs that he/she is assigned to investigate.

### A. NOTIFICATIONS

The Superintendent or designee shall meet the notification requirements of the Code of Regulations, Title 5, Section 4622, including the annual dissemination of District complaint procedures that includes information regarding unlawful pupil fees and information about available appeals, civil law remedies, including, but not limited to, injunctions, restraining orders, or other court orders which may be available to complainants and conditions under which a complaint may be taken directly to the California Department of Education. Such notification to pupils, employees, parent/guardians, the district advisory committee, school advisory committees, and other interested parties shall be included in the Student and Parent Rights and Responsibilities Handbook given to each CUSD pupil upon registration in the District and at the beginning of each school year. This information is also available on the District's web site at [www.cusd.com](http://www.cusd.com). Notification to appropriate private school officials or representatives shall be given at the annual consultation meeting between CUSD and private school officials. Complainants also have the right to pursue civil law remedies under state or federal discrimination, harassment, intimidation, or bullying laws.

An investigation of alleged program violations or unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date of the alleged unlawful discrimination, harassment, intimidation or bullying, or within six months of the date the complainant first obtained knowledge of the facts of the alleged unlawful discrimination, harassment, intimidation or bullying unless the time for filing is extended by the Superintendent, upon written request by the complainant setting forth the reasons for the extension request. Such extension by the Superintendent shall be made in writing. The period for filing may be extended by the Superintendent for good cause for a period not to exceed 90 days following the expiration of the six-month period. The Superintendent shall respond immediately upon receipt of a request for an extension.

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### B. DEFINITIONS

1. *Complaint:* A complaint is a written and signed statement alleging a violation of federal or state law or regulation, which may include an allegation of unlawful discrimination.
2. *Complainant:* Any person, including any parent/guardian of a pupil, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination in programs and activities funded by the State or receiving any financial assistance from the State or allegations of unlawful financial assistance from the State.
3. *Appeal:* An appeal is a request made in writing by a complainant for reconsideration or reinvestigation of a complaint at a level higher than the source of a preceding decision unsatisfactory to the complainant.

### C. COMPLAINT PROCEDURES

The following procedures shall be used to address all complaints which allege that the District has violated federal or state laws or regulations governing educational programs including allegations of unlawful discrimination in programs and activities funded directly by the State or receiving any financial assistance for the State. The timeline for filing a complaint and/or an appeal to the District's decision is outlined in the complaint flow chart. See Exhibit No. 9208 (2).

The Associate Superintendent, School Leadership shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the California Code of Regulations, Title 5, Section 4633.

#### 1. Informal Resolution

The purpose of the informal complaint process is to allow an individual who believes there has been a program violation or he/she has been discriminated against to resolve the issue through a consultation process at the site level rather than the formal complaint process provided by this Regulation.

When an individual feels there has been a program violation or that he/she has been discriminated against, he/she should contact the principal or department head who shall separately counsel the complainant and the alleged offender and outline possible options for informal resolution of the complaint. If informal resolution of the complaint is achieved, the complainant's decision not to proceed with the filing of a formal complaint shall be obtained in writing, after the complainant receives and reviews the formal complaint procedures. A copy of this resolution shall be forwarded to the Responsible District Officer (Associate Superintendent, School Leadership).

If informal resolution of the complaint cannot be achieved within thirty (30) calendar days of the contact by complainant, the complainant shall be provided with the copy of this policy and regulation, and shall be informed of the right to file a formal written complaint with the Associate Superintendent School Leadership under this procedure.

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### 2. Formal Complaint

- a. Any individual, public agency or organization may file a written complaint of alleged noncompliance with the Associate Superintendent, School Leadership.
- b. If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, District staff shall help the complainant to file the complaint.
- c. The formal written complaint should state the name of the complainant, the date of the complaint, the names(s) of any witnesses, a detailed statement of the circumstances constituting the alleged violation or discrimination, and the requested remedy.
- d. A pupil fees and LCAP complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with laws relating to pupil fees.
- e. Pupil fees complaint may be filed with the principal of a school or the District Superintendent or designee. Such complaints shall be filed no later than one year from the date the alleged violation occurred.

### 3. Notice to Parties

Within ten (10) calendar days of receipt of a written complaint, or as soon thereafter as possible, the Associate Superintendent, School Leadership or other designated employee, or outside investigator(s), shall:

- a. meet with the complainant if necessary to obtain clarification of the individual's written complaint;
- b. inform the alleged offender of the nature of the complaint;
- c. provide a copy of the District's uniform complaint policy and these procedures to the alleged offender; and
- d. advise the complainant and alleged offender that the complaint and the investigation including written reports and other written statements will be handled as confidentially as possible, consistent with a thorough investigation and appropriate disposition of the matter and current state and federal confidentiality and disclosure laws.

### 4. Investigation

The Associate Superintendent, School Leadership shall conduct, or cause to be conducted, a thorough, objective, and equitable investigation of the complaint or designate appropriate individuals for that purpose. The investigation of complaints may be assigned to other staff or to outside persons or organizations. The investigation should, if at all possible, be commenced within fourteen (14) calendar days of receiving the written complaint or as soon thereafter as possible. An outside investigator or investigators may, subject to Superintendent or designee authorization, be engaged depending on the nature and scope of the allegations. The term investigator includes



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neutral fact finders or other professionals knowledgeable about the law/programs that he/she is assigned to investigate.

The investigator(s) shall consult with all individuals reasonably believed to have relevant information, including the complainant and any witnesses to the conduct, and victims of similar conduct, if any, that the investigator(s) reasonably believes may exist. All complainants and/or representatives will be provided an opportunity to present evidence or information.

The refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

The refusal by the District to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

When determining whether the alleged discriminatory conduct constitutes a violation, the investigator should consider the totality of the circumstances including, as appropriate, but not limited to:

- a. The nature of the alleged misconduct or violation
- b. How often the alleged misconduct or violation occurred
- c. Whether there were past incidents or continuing patterns of misconduct or violation

### 5. Investigation Report and Decision

Within sixty (60) calendar days of receiving the formal complaint, unless due to the nature and complexity of the evidence or the unavailability of relevant witnesses additional time is required and the complainant agrees in writing to an extension, the Associate Superintendent, School Leadership shall communicate in writing the District's final administrative decision to the complainant and the alleged offender. The District's final administrative decision shall include at least the following:

- a. the findings of fact based on the evidence gathered,
- b. conclusion of law,
- c. disposition of the complaint,
- d. the rationale for such a disposition,
- e. corrective actions, if any are warranted,

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- f. notice of the complainant's right to appeal the District's decision to the State Department of Education, and
- g. the procedures to be followed for initiating an appeal to the California Department of Education.

The District's final administrative decision shall be provided in English. If the complainant speaks a primary language other than English, the District shall also provide the decision in the complainant's primary language whenever feasible or when required by law.

### 6. Appeal Procedures

If a complainant or an alleged offender is not satisfied with the results of the District's final administrative decision, the complainant or alleged offender may, within fifteen (15) calendar days, submit a written appeal to the State Department of Education. The party appealing the decision shall specify the reasons for the appeal and whether the facts are incorrect and/or the law is misapplied.

The appeal should include a copy of the complaint and the District's final administrative decision. Copies of all appeals shall be given to all other complainants and alleged offenders.

### 7. Remedial Actions

If the investigation reveals there is reasonable cause to believe that a violation or discrimination has occurred, the District shall take appropriate action to ensure that the violation or discrimination ceases and will not recur. Depending upon the totality of the circumstances, appropriate action may include, but is not limited to:

- a. Staff training,
- b. Program modification,
- c. Employee counseling,
- d. Employee discipline (as a matter of law, employee discipline is confidential and cannot be shared with the complainant).

Remedial action should be designed to further the goals of ending the discrimination, of deterring similar future misconduct and of remedying the effects of the discrimination.

Discrimination shall be deemed to constitute just and reasonable cause for employee discipline and shall be deemed to be insubordination and a violation and refusal to obey the school laws of California or reasonable regulations for the good governance of the District.

## D. RELATIONSHIP TO OTHER ENFORCEMENT MECHANISMS

The District's discrimination policies and procedures are intended to supplement, and not replace, any applicable state and federal laws and regulations. For example, a complainant who believes he or she has been discriminated or retaliated against for complaining about discrimination may file a complaint with the agencies referenced below. A complainant may request that other state and federal governmental agencies investigate complaints of discrimination by filing a complaint with the State Department of Education and the Office of

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Civil Rights. Employees may also file complaints with the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission.

California Department of Education  
1430 N Street  
Sacramento, California 95814  
(916) 319-0797

Office of Civil Rights  
50 United Nations Place, Room 239  
San Francisco, California 94102  
(415) 556-4275

Fair Employment and Housing  
Fresno District Office  
1320 East Shaw Avenue, Suite 150  
Fresno, California 93710  
(559) 445-5373

Equal Employment Opportunity Commission  
2300 Tulare Street, Suite 215  
Fresno, California 93721  
(559) 487-5793

*Adopted: 08/12/92  
Revised: 08/02/95  
Revised: 04/10/96  
Revised: 09/22/99  
Revised: 04/24/02  
Revised: 07/19/06  
Revised: 01/23/08  
Revised: 01/14/09  
Revised: 10/14/09  
Revised: 11/10/10  
Revised: 03/06/12  
Revised: 02/27/13  
Revised: 03/12/14  
Revised: 04/02/14  
Revised: 08/23/17  
Revised: 09/27/17  
Revised: 05/08/18*

*Education Code 200-262.3 Prohibition of discrimination  
Education Code section 32289 complaint of non-compliance  
with school safety planning  
Education Code 49060-49079 Student Records  
Education Code 49010-49013 Student Fees  
Education Code 48853, 48853.5, 49069.5, 51225.1 and 51225.2  
Homeless and Foster Youth  
Education Code 51228.1, 51228.2 and 51228.3 Repeat of  
Previously Taken Course and Assignment to Course without  
Educational Content  
Education Code 51210 and 51223 Elementary Physical  
Education Minutes  
Education Code 222 Lactating Pupil  
Code of Reg Title 5 3080 Application of section 4600-4671  
Code of Reg Title 5 4600-4671 Uniform Complaint Procedures  
Government Code 950-950.8 Actions against public employees  
Government Code 54957-54957.8 Closed Sessions  
Title VI, Civil Rights Act of 1964  
Title IX, Education Amendments of 1972  
Section 504, Rehabilitation Act of 1973  
34 Code of Federal Regulations 200.74 and  
Part 300  
General Education Provisions Act, 20 U.S.C.  
1221 et seq., especially:  
Family Education and Privacy Rights Act, 20 U.S.C. 1232g  
Assembly Bill 699  
Attorney General of California Model Policies April 2018*

## CLOVIS UNIFIED SCHOOL DISTRICT

### STUDENT SERVICES

#### *Rights and Responsibilities*

#### SEXUAL HARASSMENT

In accordance with Board Policy No. 2111 prohibiting sexual harassment, the purpose of this administrative regulation is to provide procedures to process complaints of sexual harassment, to investigate such complaints, to prohibit retaliation against victims of sexual harassment, and to work toward the prevention of sexual harassment.

#### Sexual Harassment Defined

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when:

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual is used as the basis of academic decisions affecting the individual.
3. The conduct has the purpose or effect of negatively impacting the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment based on sexual harassment.
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the District.

#### Examples of Sexual Harassment

By way of example, sexual harassment includes, but is not limited to:

1. Suggestive or obscene letters, notes, invitations; derogatory comments, slurs, jokes, epithets; assault, unwanted touching, impeding or blocking movement; leering, gestures, display of sexually suggestive objects, pictures or cartoons.
2. Continuing to express sexual interest after being informed that the interest is unwelcome.
3. Coercive sexual behavior used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student, including promises or threats, regarding grades, course admission, performance evaluations, or recommendations; enhancement or limitation of student benefits or services, (e.g. scholarships, financial aid, work study job).
4. Offering favors or benefits, such as favorable grades, assignments, or duties in exchange for sexual favors.
5. Creating an atmosphere of sexual harassment or intimidation, or a hostile or offensive educational environment based on sexual harassment.
6. Being made to feel uncomfortable or isolated for not participating in, or responding to, sexual jokes, cartoons, or comments.
7. Any other conduct which, at the time of the incident, is deemed by state or federal law or its implementing regulations to constitute sexual harassment.

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### Retaliation Prohibited

It is the District's policy not to discourage persons from filing sexual harassment complaints. Retaliation against any student or other person for exercising the right to file a sexual harassment complaint is strictly prohibited. To avoid retaliation and the appearance of retaliation, students are directed:

1. To refrain from taking any action which dissuades any person from exercising the right to file a sexual harassment complaint.
2. To keep confidential the facts of any complaints or investigation made pursuant to this policy, including the identity of any witnesses or any facts which disclose the identity of the claimants or witnesses.
3. The person against whom a complaint has been filed is directed not to communicate with any complainant, witness or other person involved in any complaint either in person, by mail or telephone, or through any intermediary.

### Allegations of Child Abuse

Allegations of child abuse, including violations of Penal Code 11165, 1165.1, and 11165.6, are not sexual harassment as defined by this Regulation. However, based on the facts and circumstances of a particular case, and to the extent required by law, the District may, but is not required to, process such a complaint under this Regulation.

Allegations of child abuse will be reported to the appropriate agency for their investigations.

### Confidentiality

All matters pertaining to the filing, investigation, and resolution of sexual harassment complaints shall be confidential. Files pertaining to sexual harassment complaints shall not become public record to the extent allowed by law.

### Notice to Students

The site administrator or designee shall ensure that all newly enrolled and currently enrolled students grades 4-12 are notified of the Board's policies and regulations in order to prevent incidents of sexual harassment within the District.

### Responsible District Officer

Subject to the authority of the Governing Board and the Superintendent, the Associate Superintendent-Human Resources shall be responsible for overall implementation of policies and regulations prohibiting sexual harassment. Subject to the exceptions identified below, the Associate Superintendent-Human Resources, or designee, will conduct the investigation into formal complaints of sexual harassment in which the alleged harasser is an employee. The site principal, or designee, will conduct the investigation into formal complaints of sexual harassment, in which the alleged harasser is a student. The Associate Superintendent-Human Resources shall ensure that this policy and regulation is appropriately distributed to employees and students, and, with the consent of the Superintendent, may initiate training and education programs as appropriate to enable employee and students to better understand the problems and consequences of sexual harassment.

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### Complaint Process

Students who feel aggrieved because of conduct that may constitute sexual harassment are encouraged, but not required, to directly inform the person engaging in such conduct that such conduct is unwelcome or offensive and should stop. However, if a direct discussion is uncomfortable or otherwise deemed inappropriate by the individual aggrieved because of alleged sexual harassment, then the following steps should be taken:

#### 1. Informal Resolution (Optional)

The purpose of the informal complaint process is to allow an individual who believes he or she has been sexually harassed or discriminated against to resolve the issue through a consultation process rather than the formal complaint process provided by this Regulation. When a student feels that he or she has been sexually harassed, he or she should contact a site administrator (*principal, deputy principal, learning director or counselor*). If the alleged victim contacts an employee other than a site administrator, it is the responsibility of that District employee to notify a site administrator that a complaint has been received. The site administrator shall contact the Responsible District Officer (Associate Superintendent-Human Resources). However, if the Responsible District Officer is implicated in the complaint, the complainant should contact the Superintendent who will then serve as the Responsible District Officer or designate another appropriate person. If the Superintendent is implicated in the complaint, the complainant should contact a member of the Board. The Board will then designate a District employee or other appropriate person as the Responsible District Officer to resolve the complaint. The District representative shall complete Student Sexual Harassment Informal Complaint form (*Complaint handling incident report*) which is listed as Exhibit No. 2111 (1).

The Responsible District Officer shall counsel the complainant and the alleged offender and outline possible options for informal resolution of the complaint. If an informal resolution is achieved, the complainant's decision not to proceed with the filing of a formal complaint shall be obtained in writing, after the complainant receives and reviews the formal complaint procedures. If informal resolution of the complaint cannot be achieved within thirty (30) calendar days of the District's receipt of the complaint, the Responsible District Officer or designee shall provide the complainant with a copy of this policy, and shall inform the complainant of the right to file a formal written sexual harassment complaint under this procedure.

#### 2. Formal Complaint

If a student feels that he or she has been subjected to sexual harassment, the student should make a formal written complaint, no later than six months from the date the alleged sexual harassment occurred, or the date the complainant first obtained knowledge of the facts of the alleged sexual harassment, unless the time for filing is extended by the Superintendent. Requests for filing extensions shall be made to the Superintendent in writing. The Superintendent may grant an extension for good cause for a period not to exceed ninety (90) days following the expiration of the time allowed. The site principal, or designee, will conduct the investigation into formal complaints of sexual harassment in which the alleged harasser is a student. The Associate Superintendent-Human Resources, or designee, will conduct the investigation into formal complaints of sexual harassment in which the alleged harasser is an employee.

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The formal written complaint should be submitted using the Student Sexual Harassment Formal Complaint form provided and listed as Exhibit No. 2111 (2) stating the name of the complainant, the date of the complaint, the date of the alleged harassment, the name or names of the harasser(s), where such harassment occurred, a detailed statement of the circumstances constituting the alleged harassment, and the requested remedy.

**3. Notice to Parties**

Within ten (10) calendar days of receipt of a written complaint, or as soon thereafter as possible, the Responsible District Officer or other designated employee, or outside investigator(s), shall:

- a. notify the student's parent(s) of the complaint unless it is apparent from the complaint that such notification may be harmful to the student;
- b. meet with the student if necessary to obtain clarification of the student's written complaint of sexual harassment. Unless it is apparent from the complaint that notification of the parent may be harmful to the student, notify the student's parent(s) of the meeting;
- c. inform the alleged offender of the nature of the student's complaint. If the alleged offender is a student, notify the alleged offender's parent(s) of the complaint unless it is apparent from the complaint that notification may be harmful to the alleged offender;
- d. provide a copy of the District's sexual harassment policy and these procedures to the alleged offender; and
- e. individually advise the student and alleged offender that the complaint and the investigation including written reports, and other written statements, will be handled as confidentially as possible, consistent with a thorough investigation and appropriate disposition of the matter and current state and federal confidentiality and disclosure laws.

**4. Investigation**

The Responsible District Officer shall conduct, or cause to be conducted, a thorough, objective, and equitable investigation of the complaint, or designate appropriate individuals for that purpose. The investigation of complaints may be assigned to other staff or to outside persons or organizations. The investigation should, if at all possible, be commenced within fourteen (14) calendar days of receiving the written complaint or as soon thereafter as possible. An outside investigator or investigators may, subject to the Superintendent or designee authorization, be engaged depending on the nature and scope of the allegations. The term investigator includes neutral fact finders or other professionals qualified by training and experience to assist in sexual harassment complaint procedures and process.

The Responsible District Officer, or designee, shall consult with all individuals reasonably believed to have relevant information, including the complainant and the alleged harasser(s), any witnesses to the conduct, and victims of similar conduct, if any, that the Responsible District Officer, or designee, reasonably believes may exist. The investigation shall be carried on discreetly, maintaining confidentiality of the complainant and the alleged offender insofar as legally and practically possible, while still conducting an effective and thorough investigation. In determining whether the alleged conduct constitutes sexual harassment, the Responsible District Officer, or designee, should look at the record as a whole and the

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totality of the circumstances, such as the nature of the alleged sexual harassment and the context in which the alleged incidents occurred.

### 5. Investigation Report and Decision

Within sixty (60) calendar days of receiving the formal complaint, the Responsible District Officer shall communicate in writing the District's final administrative decision to the complainant and the alleged offender. If, due to the nature and complexity of the evidence or the unavailability of relevant witnesses, additional time is required and the complainant agrees in writing to an extension, the time can be extended. When the site principal or designee is the Responsible District Officer, his or her final decision shall be reviewed by the Associate Superintendent of Curriculum and Instruction, who will communicate in writing the District's final administrative decision to the complainant and the alleged offender.

The District's final administrative decision shall include at least the following: (a) a summary of the investigative report; (b) an administrative determination regarding whether discrimination did or did not occur with respect to each allegation of the complaint; (c) a description of actions taken, if any, to prevent similar problems from occurring in the future; (d) the proposed resolution of the complaint; and (e) the complainant's and the alleged offender's right to appeal to the State Department of Education, and the procedures for initiating an appeal.

### 6. Appeal Procedures

If a complainant or an alleged offender is not satisfied with the results of the District's final administrative decision, the complainant or alleged offender may, within fifteen (15) calendar days of receipt of the District's decision, submit a written appeal to the State Department of Education. The party appealing the decision shall specify the reasons for the appeal and include with the appeal a copy of the complaint and the District's final administrative decision. Copies of all appeals shall be given to all other complainants and alleged offenders.

### 7. Remedial Actions

If the investigation reveals that there is reasonable cause to believe that sexual harassment has occurred, the District shall take appropriate action to ensure that the harassment ceases, and will not recur. The Responsible District Officer or designee will proceed in the same manner as any other suspension or a suspension with recommendation for consideration of expulsion.

The Responsible District Officer or designee must be prepared to judiciously review the information supporting the finding with the parents of the complainant and the accused.

When it appears that a sexual assault or battery may have occurred the matter shall be referred to a law enforcement agency.

### Relationship to other Enforcement Mechanisms

The District's sexual harassment policies and procedures are intended to supplement, and not replace, any applicable state and federal laws and regulations. Students may also request that other state and federal governmental agencies investigate complaints of sexual harassment. For example, any student who thinks he or she has been harassed or retaliated against for resisting or complaining about harassment may file a complaint with the following agencies:



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California Department of Education  
721 Capitol Mall, P.O. Box 944272  
Sacramento, California 94244  
916) 657-2451

Office for Civil Rights  
50 United Nations Plaza, Room 239  
San Francisco, California 94102  
(415) 556-4275

*Adopted: 8/2/95  
Amended: 4/10/96  
Amended: 9/22/99  
Amended: 4/13/05  
Reviewed: 12/6/05  
Amended: 6/11/07  
Amended: 7/15/09*

*42 U.S.C. 2000e to 2000e-17  
Title VII of the Civil Rights Act of 1994  
Penal Code Sections 11165-11174  
Civil Code Section 51.9  
Education Code 200-231.5  
5 CCR 4600, et seq.*