

## Students

### SEXUAL HARASSMENT

The Board of Trustees is committed to maintaining a learning environment that is free of harassment and discrimination. The Board prohibits the unlawful sexual harassment of any student by any employee, student, or other person at school or at any school-sponsored or school-related activity.

The District strongly encourages any student who feels that they are being or have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who has experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact their teacher, the principal, the District's Title IX Coordinator, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the Title IX Coordinator.

The District's Title IX Coordinator is:

Rich Montgomery  
Assistant Superintendent, Human Resource Services, Grades 6-12, K-8, Alternative  
Education  
33122 Valle Rd, San Juan Capistrano, CA 92675  
rjmontgomery@capousd.org

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through the Title IX Complaint procedures or Uniform Complaint procedures. Specifically, allegations of sexual harassment by and against students in violation of Title IX will be investigated in accordance with the law and district procedures specified in Administrative Regulation 5183.1. Allegations of sexual harassment under Education Code or other allegations of harassment shall be investigated and resolved in accordance with law and district procedures specified in Board Policy 1321.3, Uniform Complaint Procedure.

Prohibited sexual harassment includes, but is not limited to, unwelcome advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person, in the educational setting, when: (Education Code § 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive

educational environment.

4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any District program or activity.

Examples of types of conduct that may constitute sexual harassment in particular circumstances include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominately single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Purposefully cornering or blocking normal movements
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

If, after investigation it is determined a student engaged in sexual harassment of anyone at school or a school-related activity, the student shall be subject to disciplinary action. For students in grades K-3, this disciplinary action shall depend on the maturity of the students and the circumstances involved. For students in grades 4-12, the disciplinary action may include, but is not limited to, suspension or expulsion.

The District prohibits retaliatory behavior against any complainant or any participant in the complaint process. Information related to a complaint of sexual harassment shall be kept

confidential to the extent possible, within legal constraints and individuals involved in the investigation of such a complaint shall not discuss related information outside the investigation process.

The Superintendent or designee shall take appropriate actions to reinforce the District's sexual harassment policy.

### Record-keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the District to monitor, address, and prevent repetitive harassing behavior in District schools in accordance with legal requirements.

#### *Legal Reference:*

##### *EDUCATION CODE*

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

*48900 Grounds for suspension or expulsion*

*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*

##### *GOVERNMENT CODE*

*12950.1 Sexual harassment training*

##### *CODE OF REGULATIONS, TITLE 5*

*4600-4687 Uniform complaint procedures*

*4900-4965 Nondiscrimination in elementary and secondary education programs*

##### *UNITED STATES CODE, TITLE 20*

*1221 Application of laws*

*1232g Family Educational Rights and Privacy Act*

*1681-1688 Title IX, discrimination*

##### *UNITED STATES CODE, TITLE 42*

*1983 Civil action for deprivation of rights*

*2000d-2000d-7 Title VI, Civil Rights Act of 1964*

##### *CODE OF FEDERAL REGULATIONS, TITLE 3499.1-99.67*

*Family Educational Rights and Privacy*

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

#### *Management Resources: CSBA*

##### *PUBLICATIONS*

*Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender- Nonconforming Students, Policy Brief, February 2014*

*Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011*

*U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS Q&A on Campus Sexual Misconduct, September 2017*

*Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016*

*Dear Colleague Letter: Title IX Coordinators, April 2015*

*Sexual Harassment: It's Not Academic, September 2008*

*Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other*

*Students, or Third Parties, January 2001*

*WEB SITES*

*CSBA: <http://www.csba.org>*

*California Department of Education: <http://www.cde.ca.gov> U.S. Department of Education, Office for Civil Rights:*

*<http://www.ed.gov/about/offices/list/ocrDistrict>*

Policy

adopted: June 14, 1999

revised: December 6, 1999

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revised: July 26, 2005

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revised: July 21, 2021

**Capistrano Unified School District**

San Juan Capistrano, California