The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits, at school or at school-sponsored or school-related activities, sexual harassment targeted at any students by anyone. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment. (Education Code 234.1)

The district strongly encourages student(s) who feel they have been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult who has experienced off-campus sexual harassment that has a continuing effect on campus to immediately contact their teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district compliance officer. Once notified, the principal or compliance officer shall take the steps to investigate and address the allegation, as specified in the accompanying administrative regulation.

(cf. 0410 – Nondiscrimination in District Programs and Activities)
(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 – Uniform Complaint Procedures)
(cf. 4119.11/4219.11/4319.11 Sexual Harassment)
(cf. 5131 – Conduct)
(cf. 5131.2 – Anti-Bullying)
(cf. 5137 – Positive School Climate)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5145.3 – Nondiscrimination/harassment)
(cf. 6142.1 – Sexual Health and HIV/AIDS prevention Instruction)

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

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate 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 sex and could involve sexual violence

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

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

4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment
incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved

5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation brought to the attention of staff, that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students.

6. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made

7. Information about the rights of students and parents/guardians to file a civil or criminal complaint as applicable, including the right to file a civil or criminal complaint while the district investigation of a sexual harassment complaint continues

8. A clear message that, when needed, the district will take interim measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment

Complaint Process and Disciplinary Actions

Sexual harassment complaints by and against students shall be investigated and resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.1 – Complaints Concerning District Employees)
(cf. 5141.41 - Child Abuse Prevention)

Upon investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy shall be subject to disciplinary action. For students in grades 4-12, 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.

(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall have their employment terminated in accordance with law and the applicable collective bargaining agreement.

(cf. 4117.4 - Dismissal)
Confidentiality and Record-Keeping

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)

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 its schools. (cf. 3580 - District Records)

Fresno Unified School District does not harass, intimidate, or discriminate on the basis of race, color, ethnicity, national origin, ancestry, age, creed, religion, political affiliation, gender, gender identity or expression or genetic information, mental or physical disability, sex, sexual orientation, parental or marital status, military veteran status, or any other basis protected by law or regulation, in its educational program(s) or employment.

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
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy
106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS
Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Oono by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473 Doe v.
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:

CSBA PUBLICATIONS
Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
Providing a Safe, Nondiscriminatory School Environment for all Students, Policy Brief, April 2010

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter: Transgender Students, May 2016
Dear Colleague Letter: Title IX Coordinators, April 2015
Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter: Sexual Violence, April 4, 2011
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
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/ocr/index.html

Policy FRESNO UNIFIED SCHOOL DISTRICT
Adopted August 26, 1993 Fresno, California
Revised December 11, 1997
Revised September 22, 1999
Revised March 10, 2004
Revised August 22, 2012
Revised June 17, 2015
Revised November 16, 2016