

Prohibition of Harassment and Violence

I. GENERAL STATEMENT OF POLICY

It is the policy of the Sutter Union High School District to maintain a learning and working environment that is free from harassment because of an individual's race, color, sex, national origin, disability, religion or sexual orientation. Sutter Union High School District prohibits any and all forms of harassment because of race, color, sex, national origin, ethnicity, disability, religion, or sexual orientation.

The District is committed to ensuring that students, teachers, administrators and other school personnel at Sutter Union High School are able to attend school safely, free from all forms of harassment or violence. School personnel, working closely with students, parents and the community, play critical roles in ensuring that all forms of harassment and violence have no place in our schools.

It shall be a violation of District policy for any student, teacher, administrator, or other school personnel of this District to harass a student, teacher, administrator or other school personnel through conduct of a sexual nature, or regarding race, color, national origin, ethnicity, disability, religion, or sexual orientation as defined by this policy.

It shall also be a violation of District policy for any student, teacher, administrator or other school personnel of this District to tolerate sexual harassment or harassment because of the race, color, national origin, ethnicity, disability, religion, or sexual orientation of any student, teacher, administrator, other school personnel, as defined by this policy, or by any third parties who are participating in, observing, or otherwise engaged in activities or work, including sporting events and other extra curricular activities, under the auspices of the Sutter Union High School District.

For purpose of this policy, the term "school personnel" includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

The school system will act to promptly investigate all complaints, either formal or informal, verbal or written, of harassment because of race, color, sex, national origin, disability, religion, or sexual orientation to promptly take appropriate action to protect individuals from further harassment; and, if it determines that unlawful harassment occurred, to promptly and appropriately discipline any student, teacher, administrator or other school personnel who is found to have violated this policy, and/or to take other appropriate action reasonably calculated to end the harassment.*

*This policy is made pursuant to the requirements of 42 U.S.C. sec. 2000d; 20 U.S.C. sec. 1681 et seq.; 29 U.S.C. sec. 791 et seq.; 42 U.S.C. sec. 12131-12134.
Education Code Sec. 212.5

II. DEFINITIONS

A. Sexual Harassment

For purposes of this policy, sexual harassment of a student, teacher, administrator or other school personnel consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. a student, teacher, administrator or other school personnel causes a student, teacher, administrator or other school personnel to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program, work, or activity or when an student, teacher, administrator or other school personnel causes a student, teacher, administrator or other school personnel to believe that the student, teacher, administrator or other school personnel will make an educational or employment decision based on whether or not the student, teacher, administrator or other school personnel submits to unwelcome sexual conduct; or
2. the unwelcome sexual conduct is so severe, persistent or pervasive that it affects the ability of a student, teacher, administrator or other school personnel to participate in or benefit from an educational program, work, or activity, or creates an intimidating, threatening or abusive educational or working environment.

Examples of conduct which may constitute sexual harassment include

- sexual advances
- touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex
- coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts
- coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another
- graffiti of a sexual nature
- sexual gestures
- sexual or dirty jokes
- touching oneself sexually or talking about one's sexual activity in front of others
- spreading rumors about or rating other students, teachers, administrators, or other school personnel as to sexual activity or performance
- unwelcome, sexually motivated or inappropriate patting, pinching or physical contact. This prohibition does not preclude legitimate, non sexual conduct such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as teacher's consoling hug of a student, or one student's demonstration of a sports move requiring contact with another student
- other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats concerning an individual's educational or work status or implied or overt promises of preferential treatment

B. Harassment because of race or color

For purposes of this policy, racial harassment of a student, teacher, administrator or other school personnel consists of verbal or physical conduct relating to an individual's race or color, when

1. the harassing conduct is sufficiently severe, persistent or pervasive that it affects the ability of a student, teacher, administrator or other school personnel to participate in or benefit from an educational program, work, or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic or work performance; or
3. the harassing conduct otherwise adversely affects an individual's learning or working opportunities.

Examples of conduct which may constitute harassment because of race or color include

- graffiti containing racially offensive language
- name calling, jokes or rumors
- threatening or intimidating conduct directed at another because of the other's race or color
- notes or cartoons
- racial slurs, negative stereotypes, and hostile acts which are based upon another's race or color
- written or graphic material containing racial comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to race or color (this includes hate crimes)
- other kinds of aggressive conduct such as theft or damage to property which is motivated by race or color (this includes hate crimes).

C. Harassment based upon National Origin or Ethnicity

For purposes of this policy, ethnic or national origin harassment of a student, teacher, administrator or other school personnel consists of verbal or physical conduct relating to an individual's ethnicity or country of origin or the country of origin of the individual's parents, family members or ancestors when:

1. the harassing conduct is so severe, persistent or pervasive that it affects a the ability or a student, teacher, administrator or other school personnel to participate in or benefit from an educational program, work, or activity, or creates an intimidating, threatening or abusive educational environment;

2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning or working opportunities.

Examples of conduct which may constitute harassment because of national origin or ethnicity include

- graffiti containing offensive language which is derogatory to others because of their national origin or ethnicity
- threatening or intimidating conduct directed at another because of the other's national origin or ethnicity
- jokes, name calling, or rumors based upon an individual's national origin or ethnicity
- ethnic slurs, negative stereotypes, and hostile acts which are based upon another's national origin or ethnicity
- written or graphic material containing ethnic comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to ethnicity or national origin (this includes hate crimes)
- other kinds of aggressive conduct such as theft or damage to property which is motivated by national origin or ethnicity (this includes hate crimes).

D. Harassment because of disability

For purposes of this policy, harassment because of the disability of a student, teacher, administrator or other school personnel consists of verbal or physical conduct relating to an individual's physical or mental impairment when

1. the harassing conduct is so severe, persistent or pervasive that it affects a the ability or a student, teacher, administrator or other school personnel to participate in or benefit from an educational program, work, or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

3. the harassing conduct otherwise adversely affects an individual's learning or working opportunities.

Examples of conduct which may constitute harassment because of an individual's physical or mental impairment include

- graffiti containing offensive language which is derogatory to others because of their physical or mental disability
- threatening or intimidating conduct directed at another because of the other's physical or mental disability
- jokes, name calling, or rumors based upon an individual's physical or mental disability
- slurs, negative stereotypes, and hostile acts which are based upon another's national physical or mental disability
- graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, an individual's physical or mental disability
- other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's physical or mental disability.

E. Harassment based upon religion or creed

For purposes of this policy, harassment of a student, teacher, administrator or other school personnel because of religion or creed consists of verbal or physical conduct directed at the characteristics of a person's religion or creed, such as derogatory comments regarding surname, religious tradition, religious clothing, religious slurs, or graffiti when

1. the harassing conduct is so severe, persistent or pervasive that it affects a the ability or a student, teacher, administrator or other school personnel to participate in or benefit from an educational program, work or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassingly conduct has the purpose of effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning or working opportunities.

Examples of conduct which may constitute harassment because of religion or creed include

- graffiti containing offensive language which is derogatory to others because of their religion or creed
- threatening or intimidating conduct directed at another because of the other's religion or creed
- jokes, name calling, or rumors based upon an individual's religion or creed
- slurs, negative stereotypes, and hostile acts which are based upon another's religion or creed

- written or graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of religious groups or creeds
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to religion or creed
- other kinds of aggressive conduct such as theft or damage to property which is motivated by religion or creed.

F. Harassment based upon sexual orientation

For purposes of this policy, harassment of a student, teacher, administrator or other school personnel because of sexual orientation consists of verbal, written, or physical conduct directed at the characteristics of a person's sexual orientation, such as derogatory comments, name calling, and imitating mannerisms when:

1. the harassing conduct is so severe, persistent or pervasive that it affects the ability of a student, teacher, administrator or other school personnel to participate in or benefit from an educational program, work, or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning or working opportunities.

Examples of conduct which may constitute harassment because of religion or creed include

- graffiti containing offensive language which is derogatory to others because of their sexual orientation
- threatening or intimidating conduct directed at another because of the other's sexual orientation
- jokes, name calling, or rumors based upon an individual's sexual orientation
- slurs, negative stereotypes, and hostile acts which are based upon another's sexual orientation
- written or graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading an individual's sexual orientation
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to sexual orientation
- other kinds of aggressive conduct such as theft or damage to property which is motivated by sexual orientation.

III. REPORTING PROCEDURES

Any student who believes he or she has been the victim of sexual harassment or harassment based on race, color, national origin, disability, religion, or sexual orientation by a student, teacher, administrator or other school personnel of the Sutter Union High School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, or work under the auspices of the District, is encouraged to immediately report the alleged acts to an appropriate District official designated by this policy.

Any teacher, administrator, or other school official who has or receives notice that a student, teacher, administrator or other school personnel has or may have been the victim of sexual harassment or harassment based on race, color, national origin, disability, religion, or sexual orientation by a student, teacher, administrator or other school personnel of the Sutter Union High School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, or work under the auspices of the District, is required to immediately report the alleged acts to an appropriate District official designated by this policy.

Any other person with knowledge or belief that a student, teacher, administrator or other school personnel has or may have been the victim of sexual harassment or harassment based on race, color, national origin, disability, religion, or sexual orientation as set forth above, is encouraged to immediately report the alleged acts to an appropriate District official designated by this policy.

The Sutter Union High School District encourages the reporting party or complainant to use the report form available from the Sutter Union High School District office, but oral reports shall be considered complaints as well. Use of formal reporting forms is not mandated. Nothing in this policy shall prevent any person from reporting harassment directly to the Superintendent/Principal.

- A. The District Superintendent/Principal is the person responsible for receiving oral or written reports of sexual harassment, or harassment based on race, color, national origin, disability, religion, or sexual orientation. Any adult District personnel who receives a report of sexual harassment, or harassment based on race, color national origin, disability, religion, or sexual orientation shall inform the Superintendent/Principal immediately.

Upon receipt of a report, the Superintendent/Principal may request but may not insist upon a written complaint. If the report was given verbally, the Superintendent/Principal shall personally reduce it to written form within 24 hours. If the complaint involves the Superintendent/Principal, the complaint shall be made or filed directly with the Board of Trustees by the reporting party or the complainant.

- B. The Sutter Unified High School District has designated the Superintendent/Principal with the responsibility to identify, prevent and remedy harassment. The Superintendent/Principal shall
- receive reports or complaints of sexual harassment, and harassment based on race, color, national origin, or disability;
 - oversee the investigative process;
 - be responsible for assessing the training needs of the District's staff and students in connection with the dissemination, comprehension, and compliance with this policy;
 - arrange for necessary training required for compliance with this policy; and
 - insure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal educational opportunity, including harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful harassment, recommend appropriate discipline and remedies when harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited discrimination, including interim protection of the victim during the course of the investigation.

If any complaint involves the Superintendent/Principal, the complaint shall be filed directly with the Board of Trustees.

The Sutter Union High School District shall conspicuously post this policy against harassment and violence in each school that the District maintains, in a place accessible to students, faculty, administrators, employees, parents and members of the public. This notice shall include the name, mailing address and telephone number of the Superintendent/Principal [the name, mailing address and telephone number of the state agency responsible for investigating allegations of discrimination in educational and employment opportunities,] and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

- C. A copy of this policy shall appear in the parent/student information packet and shall be made available upon request of parents, students, and other interested parties.

- D. The Sutter Union High School District Board of Trustees will develop a method of discussing this policy with students, teachers, administrators and other school personnel. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to all school personnel on an annual basis, and at such other times as the Board of Trustees in consultation with the Superintendent/Principal determines is necessary or appropriate.
- E. This policy shall be reviewed at least annually for compliance with state and federal law.
- F. The Sutter Union High School District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

IV. INVESTIGATION

Upon receipt of a report or complaint alleging sexual harassment, or harassment based upon race, national origin, disability, religion, or sexual orientation, the Superintendent/Principal shall immediately undertake or authorize an investigation. That investigation may be conducted by school district officials or by a third party designated by the District.

The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to the complaint. The investigation may also consist of the evaluation of any other information or documents which may be relevant to the particular allegations.

In determining whether the alleged conduct constitutes a violation of this policy, the District shall consider

- the nature of the behavior
- how often the conduct occurred
- whether there were past incidents or past continuing patterns of behavior
- the relationship between the parties involved
- the race, national origin, sex and age of the victim
- the identity of the perpetrator, including whether the perpetrator was in a position of power over the student, teacher, administrator or other school personnel allegedly subjected to harassment
- the number of alleged harassers
- the age of the alleged harasser(s)

- where the harassment occurred
- whether there have been other incidents in the school involving the same or other students, teachers, administrators or other school personnel
- whether the conduct adversely affected the work, work environment, education, or educational environment of the student, teacher, administrator or other school personnel
- the context in which the alleged incident(s) occurred.

Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

The investigation shall be completed [no later than fourteen days from receipt of the report]. The Superintendent/Principal shall make a written report to the Board of Trustees upon completion of the investigation. If the complaint involves the Superintendent/Principal, the report may be filed directly with the Board of Trustees. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The Superintendent/Principal's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

V. SCHOOL DISTRICT ACTION

- A. Upon receipt of a report that violation has occurred, the District will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and District policies for violations of a similar nature or similar degree of severity. In determining what is an appropriate response to a finding that harassment in violation of this policy has occurred, the District shall consider
- what response is most likely to end any ongoing harassment
 - whether a particular response is likely to deter similar future conduct by the harasser or other
 - the amount and kind of harm suffered by the victim of the harassment
 - the identity of the party who engaged in the harassing conduct
 - whether the harassment was engaged in by student, teacher, administrator or other school personnel, and if so, the District will also consider how it can best remediate the effects of the harassment.

In the event that the evidence suggests that the harassment at issue is also a crime in violation of a California criminal statute, the Board of Trustees shall also direct the Superintendent/Principal to

report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

- B. The results of the District's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the District in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.
- C. If the results of the District's evaluation of a complaint of harassment results in a conclusion that an individual has engaged in unlawful harassment in violation of this policy, or that school personnel have failed to report harassment as required herein, that individual may appeal this determination by use of established Board procedures for appealing other adverse personnel and/or education related actions. If the results of the District's evaluation of a complaint of harassment results in a conclusion that no unlawful harassment has occurred, an individual who was allegedly subjected to harassment and believes that this conclusion is erroneous may appeal this determination by use of established Board procedures for appealing other adverse personnel and/or education related actions.
- D. Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained for a period of [two years] at the main office of Sutter Union High School District.

VI. REPRISAL

Submission of a good faith complaint or report of sexual harassment, or harassment based upon race, color, disability, national origin, religion, or sexual orientation will not affect the complainant or reporter's future employment, grades, learning or working environment or work assignments.

The District will discipline or take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports an incident of alleged sexual, racial, ethnic or disability related harassment or violence, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VII. ADMINISTRATIVE AGENCIES

Students, teachers, administrators or other school personnel can obtain specific rules and procedures for reporting charges of harassment and violence to an administrative agency by contacting the following:

SUTTER UNION HIGH SCHOOL
Mr. Ryan Robison, Superintendent/Principal
2665 Acacia, P. O. Box 498
Sutter, CA 95982
(530) 822-5161

UNITED STATES DEPARTMENT OF EDUCATION
Office for Civil Rights - Region IX
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102
(415) 556-7025

Education Code sec. 212.5

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