

# NICASIO SCHOOL DISTRICT

## Board Policy

Series 5000: Students

BP 5145.7

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### SEXUAL HARASSMENT of STUDENTS

#### **Purpose of Policy**

Sexual harassment is unlawful. The Nicasio School Board will not tolerate any form of sexual harassment. 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 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.

Teachers shall discuss this policy with their students in age-appropriate ways and should assure them that they need not endure any form of sexual harassment.

#### **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 included, 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.

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 Nicasio School 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 members, upon personal knowledge of an incident of sexual harassment, are obligated to report such information 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

### **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. Witnesses and those interviewed shall be informed of the confidential nature of the issues and the investigation, and shall be informed that it will be a violation of this policy to disclose the allegation or the nature of the investigation to others and shall be subject to disciplinary action as defined in this policy.

### **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 Nicasio School 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.

### **Investigation Guidelines**

All investigations of allegations of sexual harassment shall be handled promptly in a serious, sensitive and confidential manner. The Superintendent shall determine who shall do the investigation.

- (1) The designated investigator shall, as soon as reasonably possible after the incident has been reported, inform the student, employee, or other person accused of sexual harassment of the allegation, and they will be given an opportunity to respond. The

person accused shall not be given a copy of the complaint but shall be informed of the allegations. The name of complaint party shall remain confidential to the extent possible.

- (2) All parties, specifically including complainants, and witnesses, will be promptly and fully informed of their rights pursuant to this policy, including the fact that complainant and witnesses will not be retaliated against and the confidential nature of the allegation and investigation.
- (3) A written report of the investigation findings shall be filed by the investigator with the Superintendent within twenty (20) school days of the date the student filed the incident report. The Superintendent may extend the timeline depending on the nature of the investigation. A summary of the report shall be mailed to the student who reported the harassment, the student's parent(s), and the person accused.

### **Disciplinary Action**

When an allegation of sexual harassment is supported by the investigation and disciplinary action is 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 Nicasio School 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.

### **Appeal Procedures**

Either the complaining party or the accused may appeal the findings of an investigation to the Governing Board of the District. Appeals shall be made in writing within ten (10) business days from the date of a finding.

### **Training and Curriculum**

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

**Notification**

There will be adequate notification of the policy, which will be published on the District’s website, in site handbooks and/or back-to-school mailings.

**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, an explanation of possible civil proceedings and potential legal consequences of sexual harassment. The Superintendent will initiate training and education programs to enable all persons, and in particular, supervisors, to better understand the problem of sexual harassment. In addition, the Superintendent shall designate appropriate employees to enforce or administer this policy within the District and shall provide for appropriate training for the on-site administrator on a regular basis.

**Special Assistance**

It is expected that questions may arise concerning the interpretation of the prohibition against sexual harassment, the methods and procedures to be following in the investigation of complaints, and the appropriateness of specific solutions in disposition of complaints. For assistance in these matters, individuals may contact the Superintendent.

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**Legal Reference:**

- 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.

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