

**Santa Monica-Malibu Unified School District
Board of Education Meeting
ADDENDUM TO THE AGENDA**

February 7, 2008

CONSENT AGENDA

- A.10a Acceptance of Work Completed by Lumas Air for HVAC Units – Santa Monica High School – Bid #8.04R
ADD: Agenda item (*page 2 of this addendum*)

- A.10b Amendment to Contract for Solar Panel Replacement – Santa Monica High School – Bid #8.06 – Change Order #1
ADD: Agenda item (*page 3 of this addendum*)

MAJOR ITEMS

- A.19 Interim Architectural Contract for Measure “BB” Facilities Design – Harley Ellis Devereaux – Olympic Continuation High School and Washington West
ADD: Agenda item (*pages 4-5 of this addendum*)

- A.20 Revise Policy 1312.3 – Uniform Complaint Procedure
ADD: Agenda item (*pages 6-9 of this addendum*)

DISCUSSION ITEMS

- D.01a Annual Review of Interdistrict Permit Policy
ADD: Agenda item (*pages 10-15 of this update*)

- D.04 Planning of the Olympic Facility – Measure “BB” Facilities Design
ADD: Agenda item (*page 16-17 of this update*)

- D.05 Revise Board Policy 4119.11 – Sexual Harassment (Personnel) and Policy 5145.7 – Sexual Harassment (Students)
ADD: Agenda item (*page 18-26 of this update*)

INFORMATION ITEMS

SW

TO: BOARD OF EDUCATION

ACTION/CONSENT

02/07/08

FROM: DIANNE TALARICO / JANECE MAEZ /
VIRGINIA I. HYATT

ADDENDUM

RE: ACCEPTANCE OF WORK COMPLETED BY LUMAS AIR FOR HVAC
UNITS - SANTA MONICA HIGH SCHOOL - BID #8.04R

RECOMMENDATION NO. A.10a

It is recommended that the Board of Education accept as completed all work contracted with Lumas Air for the music rooms at Santa Monica High School in the amount of \$51,942.

Funding Information

Budgeted: Yes

Fund: 01

Source: Other Local Income

Account Number:01-901000-0-00000-72000-6400-000-0000

Description: Equipment, General Administration

COMMENT: The contract with Lumas Air has been completed. In order to facilitate the release of the retention being held by the district, a Notice of Completion must be filed for thirty-five (35) days with the County of Los Angeles pending Board approval.

ORIGINAL CONTRACT: \$51,942

FINAL CONTRACT AMOUNT: \$51,942

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

TO: BOARD OF EDUCATION

ACTION/CONSENT

02/07/08

FROM: DIANNE TALARICO / JANECE L.MAEZ /
VIRGINIA I. HYATT

ADDENDUM

RE: AMMENDMENT TO CONTRACT FOR SOLAR PANEL REPLACEMENT -
SANTA MONICA HIGH SCHOOL - BID #8.06 - CHANGE ORDER #1
AMECO SOLAR ENERGY RESOURCES

RECOMMENDATION NO. A.10b

It is recommended that the Board of Education authorize Change Order #1 as an amendment to the contract for Solar Panel Replacement, Santa Monica High School, Bid #8.06 to Ameco Solar Energy Resources in an amount not to exceed \$2,754, for a total contract amount of \$87,154.

Funding Information

Budgeted: Yes

Fund: 01

Source: On Going Major Maintenance

Account Number:21-00000-0-00000-82000-6500-015-1500

Description: Replacement Equipment

COMMENT: Change Order #1 represents the work listed below:

ORIGINAL CONTRACT AMOUNT	\$ 87,154
<u>CHANGE ORDER #1</u>	<u>\$ 2,754</u>
TOTAL CONTRACT AMOUNT	\$ 87,154

This change order constitutes the following additions to the scope of work:

1. Replace existing pump in pool room that that failed after testing with the newly installed solar panels. \$1,294
2. Replace existing relay with new Heliotrope HM5000 and H.D. Relay \$860
3. Replace exiting valves with new motorized three-way drain valves \$600

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

TO: BOARD OF EDUCATION

ACTION/MAJOR

02/07/08

FROM: DIANNE TALARICO / JANECE L. MAEZ /
VIRGINIA I. HYATT

ADDENDUM

RE: INTERIM ARCHITECTURAL CONTRACT FOR MEASURE "BB"
FACILITIES DESIGN - HARLEY ELLIS DEVEREAUX - OLYMPIC
CONTINUATION HIGH SCHOOL AND WASHINGTON WEST

RECOMMENDATION NO. A.19

It is recommended that the Board of Education award an interim contract agreement to Harley Ellis Devereaux (HED) to provide architectural design services in conjunction with the Measure "BB" construction program, in an amount of \$50,000 to complete the programming of schematic design.

Funding Information

Budgeted: Yes

Fund: 21

Source: Building Fund

Account Number: 21-00000-0-00000-82000-5802-050-1500

Description: Consultant Services

COMMENTS: Due to the complexity of Architectural service contracts, district staff plans to use interim agreements to cover costs of services through February 2008 in order for the projects to proceed on schedule.

During its meeting of October 10, 2007, the Board of Education approved \$6 million dollars for site work at both Washington West/East and Olympic Continuation High Schools. The scope of the work follows:

Olympic High School

1. Reconfigure kitchen area into new Art/Photo Lab with kiln.
2. Reconfigure existing Room 4 into new library.
3. Demolish 6 unused relocatables.
4. Provide mobile science lab (district provided specification).
5. Reconfigure existing Room 11 into woodshop with outdoor work area.
6. Perimeter security, including visual barrier along Lincoln (fencing, landscaping).
7. Install new security systems campus-wide, including:
 - a. Public address, clocks, bell system (Simplex per district standard)
 - b. Phone system (technology budget)
 - c. Visual silent alarm system - coordinate with City police
 - d. Automatic lockdown at doors- coordinate with City police
 - e. Security cameras in hallways

8. Reconfigure Room 7 (currently Adult Education) into IEP meeting room.
9. Reconfigure Room 8 (currently Adult Education) into main administrative office.
10. Reconfigure Rooms 13 and 14 (currently Adult Education) into general Classrooms.
11. Provide ISP breakout room.
12. Provide outdoor eating area with food service area.
13. Classroom technology - Smartboards or document cameras/smart tablets.
14. Upgrade fire and life safety, fire alarms as required.
15. Upgrade technology infrastructure campus-wide.
16. Assume Adult Education programs removed from site by 07/08.

\$2 million

Washington East

1. Reconfigure two classrooms along 4th street into office space for CDS (St. Joseph Early Learning Center rental area).
2. Incorporate existing 4th Street entrance to offices.
3. Coordination with Coastal Commission for permit exemption.
4. Phone system (linking East and West sites) (technology budget).

Washington West

1. Reconfigure rooms 3 and 4 into preschool classrooms.
2. Coastal Commission compliance.
3. Coordination with Coastal Commission for permit exemption.
4. Phone system (linking East and West sites) (technology budget).

\$500,000

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

TO: BOARD OF EDUCATION

ACTION/MAJOR

02/07/08

FROM: DIANNE TALARICO / CHIUNG-SALLY CHOU

ADDENDUM

RE: REVISE POLICY 1312.3 - UNIFORM COMPLAINT PROCEDURE

RECOMMENDATION NO. A.20

It is recommended that the Board of Education revise Board Policy 1312.3 - Uniform Complaint Procedures. Although the board approved this policy on November 15, 2007, the Categorical Program Monitoring team has requested a simple change in language. This change does not affect the content or purpose of the policy.

Attachment: Board Policy 1312.3 - Uniform Complaint Procedures

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

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<u>NUMBER</u>	<u>ARTICLE</u>	<u>TITLE</u>
1312.3	Community Relations	Uniform Complaint Procedures

<u>SUBTOPIC</u>	<u>POLICY</u>	<u>REGULATION</u>	<u>EXHIBIT</u>
Community Relations	X		

DETAILS

The Governing Board recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations ~~such laws~~ and/or alleging discrimination and shall seek to resolve those complaints in accordance with the procedures set out in Sections 4600-4687 of the Title 5 Regulations and in accordance with the policies and procedures of the governing board ~~district's uniform complaint procedures~~. (5 CCR 4620)

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, 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. (5 CCR 4610) (AR 1312.3)

Uniform complaint procedures shall also 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, nutrition services, and special education programs. (5 CCR 4610) (AR1312.3)

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure (AR 1312.4).

Complaints related to post-grade twelve intensive services and instruction (AB 347) for students who have not passed CAHSEE in

one or both subjects shall be investigated pursuant to the district's uniform complaint procedure.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects every individual's right to privacy. Discrimination 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.

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations. The Deputy Superintendent shall be designated as the responsible staff position for receiving complaints with regards to AR 1312.3 and AR 1312.4.

REFERENCE

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
8200-8498 Child care and development programs
8500-8538 Adult basic education
18100-18203 School libraries
32289 School safety plan, uniform complaint procedure
35186 Williams uniform complaint procedure
41500-41513 Categorical education block grants
48985 Notices in language other than English
49060-49079 Student records
49490-49590 Child nutrition programs
52160-52178 Bilingual education programs
52300-52499.6 Career-technical education
52500-52616.24 Adult schools
52800-52870 School-based coordinated programs
54000-54028 Economic impact aid programs
54100-54145 Miller-Unruh Basic Reading Act
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs

56000-56885 Special education programs
59000-59300 Special schools and centers
64000-64001 Consolidated application process
CODE OF REGULATIONS, TITLE 5
3080 Application of section
4600-4687 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs
PENAL CODE
422.6 Interference with constitutional right or privilege
UNITED STATES CODE, TITLE 20
6301-6577 Title I basic programs
6601-6777 Title II preparing and recruiting high quality teachers and principals
6801-6871 Title III language instruction for limited English proficient and immigrant students
7101-7184 Safe and Drug-Free Schools and Communities Act
7201-7283g Title V promoting informed parental choice and innovative programs
7301-7372 Title V rural and low-income school programs

MANAGEMENT RESOURCES:

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/offices/OCR>

ADOPTED

June 3, 2004

REVISED

November 15, 2008

CSBA DATE

January 2006

DISTRICT GOAL

Quality Education for All

TO: BOARD OF EDUCATION

DISCUSSION

02/07/08

FROM: DIANNE TALARICO / TIMOTHY R. WALKER /
LAUREL SCHMIDT

ADDENDUM

RE: ANNUAL REVIEW OF INTERDISTRICT PERMIT POLICY

DISCUSSION ITEM NO. D.01a

It is recommended that the Board of Education review Board Policy 5117 - Interdistrict Attendance and adopt the following changes as identified throughout the current version of this policy. Major recommended changes to this policy include:

- 1) In Section E. Extend the moratorium on the receipt of all new interdistrict permits for schools in the City of Santa Monica. This moratorium shall continue through the 2008-2009 school year.
- 2) In Section E. Lift the moratorium on the receipt of new interdistrict attendance permits for the City of Malibu. Requests for new interdistrict permits will be accepted for all schools in the City of Malibu. New interdistrict permits will be granted per the language of Section D.
- 3) In Section F.(2) In reference to permits for children of district employees, replace the word "guarantee" with language that is more in alignment with Section D.
- 4) Throughout the policy amend the phrase "If space and budget permit" to read "If space, staffing, and budget permit".

Background:

Students attending SMMUSD on interdistrict permits must reapply annually. Parents/guardians must contact their district of residence to receive approval for their students to receive services outside of their district of residence. Proof of renewal must be provided to the Santa Monica Malibu School District to be considered for continued enrollment. In addition, parents/guardians must complete the SMMUSD Interdistrict Permit Request Form and be authorized to enroll.

An interdistrict permit may be denied or revoked in accordance with Board Policy 5117 for the following reasons:

1. Excessive tardiness or absence.
2. Failure to uphold appropriate behavior standards.
3. Failure to make appropriate academic effort.
4. If the conditions under which student received a permit have changed.

All interdistrict permit holders will receive letters in April 2008 regarding the process for renewing permits for the 2008-2009 school year.

Attachment: Board Policy 5117 - Interdistrict Attendance

New text in underline
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<u>NUMBER</u>	<u>ARTICLE</u>	<u>TITLE</u>
5117	Students	Interdistrict Attendance Policy

<u>SUBTOPIC</u>	<u>POLICY</u>	<u>REGULATION</u>	<u>EXHIBIT</u>
Attendance	X		

DETAIL

A. Although students generally must attend school in the district and school where their residence has been established, the Santa Monica-Malibu School District Governing Board recognizes justifiable reasons for interdistrict permits. Upon request, the Superintendent or designee may accept students from other districts and may allow students who live within the District to transfer to another school within the District or out of the District.

Beginning with the 2005-06 school year permits will be issued on a year-to-year basis. Parents must reapply and be accepted for continued attendance each year. Students enrolled prior to the 2005-06 school year on a PERT or DERT permit will not be affected by this change.

Involuntary loss of housing resulting from: apartments being removed from the rental market (Ellis Act), buildings being red-tagged, or evictions to accommodate owner-occupancy should not interfere with a child completing his/her education in the Santa Monica Malibu Unified School District. The permit office will require the applicant to obtain verification from the Rent Control Department or other appropriate legal agency. These students will be allowed to remain in their schools for the remainder of the year in which their housing has been lost. In addition, they will be allowed to remain in SMMUSD as permit students in subsequent years provided they meet all the conditions of students attending SMMUSD on permit, and they reapply annually. The Ellis Act allows California apartment owners to evict tenants if the landlords intend to withdraw their units from the rental market.

SMMUSD students in good standing who were residents of Santa Monica or Malibu during the 2001-2002 school year, and subsequently move to another city, will be allowed to remain in the Santa Monica-Malibu School district as permit students, upon receiving a permit from their district of residence and meeting all the conditions of students attending Santa Monica-Malibu Unified School District on a permit.

- B. Permits of this type are to be initiated by the student's parent or guardian who attests to the fact or shows evidence that the permit would be in the student's best interests. Cancellation of the permit shall occur if certain provisions are not adhered to by the student or parent/guardian, or if overcrowding should occur at the school of acceptance.
- C. The Board is committed to providing a quality education for all District students legally enrolled and will provide fair and consistent treatment for students and parent/guardians regardless of their residence or permit status. All applications for a permit will be treated in a fair and consistent manner.
- D. Final approval of permits for all students, including students needing specialized programs, such as GATE, special education, ELL, etc., shall rest at the District and shall be contingent upon space, budget and staff availability. The District will not pay excess costs to provide specialized services to students on permit.
- E. Except for the conditions listed below, effective September 2002, there will be a moratorium on the receipt of all new interdistrict attendance permits for schools in the City of Santa Monica. This moratorium shall continue through the 2008-2009 school year.

Requests for new interdistrict permits will be accepted for all schools in the City of Malibu. Permits will be granted per the language of section D. above.

No permits will be granted to attend Olympic High School.

Exceptions to the moratorium are as follows:

1. All students currently attending on an interdistrict permit will be allowed to remain in the District until they leave or graduate, assuming that they uphold appropriate standards of behavior and attendance, academic effort, and that the conditions under which the current permit was granted have not changed.
 2. Guidelines previously applied to SMASH, Edison, including the immersion program through Grade 8, and our preschools will remain in effect.
- F. Requests for new permits will be received (granted) in the following order:
 1. Intradistrict permits allowing children who are residents of the cities of Santa Monica and/or Malibu to attend a school other than their neighborhood school;

- ~~The District guarantees~~ It is the intention of the District to provide same-school placement for all siblings in a family once an intradistrict permit has been granted, except in cases where students need a specialized program which is only available on another campus.
2. Interdistrict permits for children of employees of the Santa Monica-Malibu Unified School District [certificated, classified, management, full and part-time (a minimum of 15 hours per week)];
 - ~~The District guarantees~~ It is the intention of the District to provide a seat in a District school to all children of District employees who have requested a new interdistrict permit, with the understanding that Section D. will be considered. staff will do its best to accommodate requests for a specific school but will not guarantee requested placement. On-going permit holders are not affected and will continue in the home school being currently attended.
 3. If space, staffing and budget permit, staff will do its best to accommodate requests for placement for siblings (of current interdistrict permit holders) who will be entering Kindergarten, 1st, 6th, or 9th Grade. If a permit is received (granted) there is no guarantee of same-school placement. On-going permit holders are not effected and will continue in the home school being currently attended.
 4. If space, staffing and budget permit, interdistrict permits for children of employees of the cities of Malibu or Santa Monica.
 5. If space, staffing and budget permit, interdistrict permits for children of full-time, permanent employees of Santa Monica College enrolling in grades K-8 for the 2008-2009 school year, up to:
 - a) 50 students if the enrollment decline is less than 120.
 - b) If the decline is more than 120, the number of additional students required to shrink the decline to 120.

No permits will be issued in this category at the high school level.

REFERENCE

LEGAL REFERENCE:

EDUCATION CODE

- 46600-46611 Interdistrict attendance agreements
- 48204 Residency requirements for school attendance
- 48915 Expulsion; particular circumstances
- 48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures
48980 Notice at beginning of term
52317 Admission of persons including nonresidents to attendance area;
workers' compensation for pupils

MANAGEMENT RESOURCES

ADOPTED

January 27, 1994

REVISED

June 7, 2007
June 15, 2006
November 17, 2005
February 17, 2005
November 21, 2002
April 1, 1999

CSBA DATE

February 1995

DISTRICT GOAL

Quality Education for All

TO: BOARD OF EDUCATION

DISCUSSION

02/07/08

FROM: DIANNE TALARICO / JANECE L. MAEZ /
VIRGINIA I. HYATT

ADDENDUM

RE: PLANNING OF THE OLYMPIC FACILITY - MEASURE "BB"
FACILITIES DESIGN

DISCUSSION ITEM NO. D.04

During the Board Meeting of October 18, 2007, the Board of Education directed staff to implement a plan to remove Special Ed classrooms, Occupational Therapy, Physical Therapy, Child Care classrooms, and offices from the Olympic facility to an alternate site. As the programming and schematic design process is underway, it is crucial that the board direct staff to inform the architectural firms of this additional scope to their services as quickly as possible.

Purpose:

- Determine if the Special Ed and Child Care facilities at the Olympic/Pine Street locations are to be relocated under the Measure "BB" program and/or future programs
- Determine which sites are to be developed
- Discuss funding options
- Direct staff to inform architects of additional scope

History:

During the October 18, 2007, Board of Education meeting, the board requested that staff find alternate locations for Child Care and Special Ed facilities located on the Olympic Continuation High School site, thus enabling the development of the Olympic site as an expanded Continuation High School program, a possible Small School Learning Community, or other future uses. Also, the Measure "BB" Advisory Committee recommended that the board adopt a policy that Child Development Services receives first opportunity to use appropriate classroom space as it becomes available at elementary school sites. \$6 million dollars was allocated between the Washington West/East and the Olympic sites.

Due to state licensing requirements and the unique needs for both the Child Care and Special Ed programs, there are no "ready made" areas for these programs available in district facilities as they currently exist. Currently, both of these programs are impacted districtwide.

During the April 25, 2007, Board of Education meeting, a Discussion Item D.03 concerning revised facility standards was presented to the board for review based upon a Needs Assessment from the Facility Master Planning process. A recommendation

resulted from the planning process that an expanded suite of rooms be built to accommodate both the Special Ed and Child Care programs in the district. This template contained Occupational Therapy (OT), Physical Therapy (PT), office, testing, and classroom spaces at the elementary level with an expanded program at the secondary school level.

The preliminary draft Facilities Master Plan went further to discuss that, ideally, the specialized suite of teaching and support spaces should be located at one of the Malibu elementary schools and at two sites in Santa Monica, preferably one north side and one south side location. The sites were not identified in the FMP, but programmatically, the sites most suited for this purpose would be McKinley, Roosevelt, Rogers, or Grant in the Santa Monica area and Cabrillo Elementary in Malibu. McKinley, Roosevelt, and Cabrillo have scope in the Measure "BB" program that could be expanded or revised to contain this suite of rooms. Grant and Rogers would be more difficult to design in the Phase I scope of the Draft Master Plan. No dollars have been allocated in the Measure "BB" scope to design these rooms during programming and schematic design.

Funding Options:

As no funding has been allocated to relocate these programs from the Olympic site, a budget would have to be approved for planning to begin. Determining how many locations would be included in the Measure "BB" scope would refine the level of funding required. Currently, there are three (3) Special Ed classrooms, four (4) Pre-schools rooms, one (1) OT/PT room, and office space. These are funding options:

- Use dollars from the Olympic / Washington West/East allocation
- Use dollars from the unallocated Measure "BB" program

TO: BOARD OF EDUCATION

FROM: DIANNE TALARICO / TIMOTHY R. WALKER /
MICHAEL D. MATTHEWS

RE: REVISE POLICY 4119.11 - SEXUAL HARASSMENT (PERSONNEL)
AND POLICY 5145.7 - SEXUAL HARASSMENT (STUDENTS)

DISCUSSION

02/07/08

ADDENDUM

DISCUSSION NO. D.05

It is recommended that the Board of Education revise Board Policy 4119.11 - Sexual Harassment (Personnel) and Board Policy 5145.7 - Sexual Harassment (Students). These revisions are recommended by CSBA and the California State Department of Education.

Attachment:

- Board Policy 4119.11 - Sexual Harassment (Personnel)
- Board Policy 5145.7 - Sexual Harassment (Students)

New text in underline
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<u>NUMBER</u>	<u>ARTICLE</u>	<u>TITLE</u>
4119.11	Personnel	Sexual Harassment

<u>SUBTOPIC</u>	<u>POLICY</u>	<u>REGULATION</u>	<u>EXHIBIT</u>
Health and Safety	X		

DETAIL

~~Sexual harassment by any employee toward any other person shall not be tolerated in the work environment. The Board of Education considers sexual harassment to be a major offense which may result in disciplinary action or dismissal of the offending employee.~~

~~Pursuant to Education Code 212.5 "sexual harassment" means unwelcome sexual 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. When submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, status or promotion.~~
- ~~B. When submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.~~
- ~~C. When the conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile or offensive work environment.~~
- ~~D. When 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 other available activities.~~

~~An employee who feels that he/she is being harassed is encouraged to immediately report such incident to his/her immediate supervisor without fear of reprisal. The immediate supervisor shall take the following investigative/corrective actions:~~

- ~~A. All supervisors or managers shall immediately report any evidence of sexual harassment or complaints regarding sexual harassment made to them to the Director-Classified Personnel or Assistant Superintendent, Personnel.~~

- ~~B. All supervisors or managers shall, within three working days, investigate any incident of alleged sexual harassment reported to them.~~
- ~~C. All supervisors or managers shall immediately report in writing the results of any investigation of sexual harassment, including recommended corrective or disciplinary action to be taken, to the Director-Classified Personnel or the Assistant Superintendent, Personnel.~~
- ~~D. Under no circumstances shall an employee of the district who believes that he or she has been the victim of sexual harassment be required to first report that harassment to a supervisor if the supervisor is the individual who has done the harassing. An employee who has a claim of sexual harassment to file against an immediate supervisor shall contact the supervisor's immediate supervisor or the Superintendent of Schools.~~
- ~~E. All supervisors or managers are required to maintain confidentiality in investigating any claims of alleged harassment.~~
- ~~F. All supervisors or managers shall follow up within one month any reported incident of sexual harassment to determine whether the victim has been subject to any further forbidden conduct.~~

Sexual Harassment

The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to staff
3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the

complainant and the alleged harasser and subsequent monitoring of developments

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (5 CCR 4964)

Any district employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any district employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment against a district employee, job applicant, or student is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

REFERENCE

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 42

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

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

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31

Cal.4th 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

MANAGEMENT RESOURCES

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office of Civil Rights:

<http://www.ed.gov/offices/OCR>

ADOPTED

February 11,
1992

REVISED

XXXXXXXXXXXXXXXXXX

CSBA DATE

July 2005

New text in underline
Deleted text in ~~strikeout~~

<u>NUMBER</u>	<u>ARTICLE</u>	<u>TITLE</u>
5145.7	STUDENTS	Sexual Harassment

<u>SUBTOPIC</u>	<u>POLICY</u>	<u>REGULATION</u>	<u>EXHIBIT</u>
Welfare	X		

DETAIL

~~The Board of Education prohibits sexual harassment of any student by any person. Teachers shall discuss this policy with their students in age-appropriate ways and students will be taught that they need not endure any form of sexual harassment.~~

~~Any student who engages in sexual harassment may be subject to disciplinary action up to and including expulsion. Any employee who permits or engages in sexual harassment may be subject to disciplinary action up to and including dismissal.~~

~~The Board expects students and/or staff to report incidents of sexual harassment as soon as possible to the principal or to a responsible member of the staff who will help the complainant make a formal complaint. The complainant will be given a copy of AR 1312.3 - Uniform Complaint Procedures. Complaints of harassment can be filed in accordance with these procedures.~~

~~The district prohibits retaliatory behavior against any complainant or any participant in the complaint process. Each complaint of sexual harassment shall be promptly investigated in a way that respects the privacy of all parties concerned.~~

The Governing Board is committed to maintaining an educational environment that is free from harassment. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and 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 gender

2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the person(s) to whom a report of sexual harassment should be made

Complaint Process

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal or any other district employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the nondiscrimination coordinator or the Superintendent or designee.

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the principal or designee finds that sexual harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where required.

Disciplinary Measures

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4 through 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.

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 its schools.

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)

REFERENCE

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex
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

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, Discrimination

UNITED STATES CODE, TITLE 42

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

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

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

COURT DECISIONS

Reese v. Jefferson School District, (2001) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Nabozny v. Podlesny, (1996, 7th Cir.) 92 F.3d 446

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Oona R.-S. etc. v. Santa Rosa City Schools et al, (1995) 890 F.Supp. 1452

Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143

Clyde K. v. Puyallup School District #3, (1994) 35 F.3d 1396

Patricia H. v. Berkeley Unified School District, (1993) 830 F.Supp. 1288

Franklin v. Gwinnet County Schools, (1992) 112 S. Ct. 1028
Kelson v. City of Springfield, Oregon, (1985, 9th Cir.) 767 F.2d
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GENERAL

Protecting Students from Harassment and Hate Crime: A Guide for
Schools, January 1999

OFFICE OF CIVIL RIGHTS' PUBLICATIONS

Revised Sexual Harassment Guidance, January 2001

Sexual Harassment Guidance, March 1997

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

<u>ADOPTED</u>	<u>REVISED</u>	<u>CSBA DATE</u>
March 28, 1993	xxxxxxx	November 2001