

# Burnt Ranch Elementary School District

## Board of Trustees Regular Meeting

Burnt Ranch Elementary School  
251 Burnt Ranch School Road  
Burnt Ranch, California

*\*Meeting will be available remotely via ZOOM. Please call (530) 629-2543 before 3:00pm on 12/10/20 for information regarding remote access.*

**Thursday, December 10, 2020**  
**4:00pm Regular Meeting**

### AGENDA

#### 1.0 Formal Opening

- 1.1 Call to Order
- 1.2 Roll Call
- 1.3 Additions or Changes to Agenda

**2.0 Public Communication:** Persons wishing to address the Board on any item except personnel are invited to do so at this time. In the interest of time and order, presentations from the public are limited to three minutes per person, per topic. Please state your name and address before speaking. In accordance with the Brown Act, unless an item has been placed on the agenda there shall be no action taken. The Board may 1) acknowledge receipts of the information; 2) refer to staff for further study; 3) refer the matter to the next agenda.

#### 3.0 Accept Open Session Agenda

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

**4.0 Consent Agenda:** The following consent agenda items are considered to be routine by the District Board and will be enacted with one motion. There will be no separate discussion of items unless a Board member so requests, in which the items will be considered following approval of the Consent Agenda.

- 4.1 Minutes - November 12, 2020
- 4.2 Warrants – November 10, 2020 to December 9, 2020

#### 5.0 Correspondence

#### 6.0 Public Hearing

- 6.1 Open Public Hearing
- 6.2 Discussion of Budget Overview for Parents
- 6.3 Close Public Hearing

## **7.0 Reports**

- 7.1 Building Projects
- 7.2 Superintendent
- 7.3 Business
- 7.4 Principal
- 7.5 Enrollment and attendance
- 7.6 Staff

## **8.0 General Business**

- 8.1 Review/Approve 2020-2021 LCFF Budget Overview
- 8.2 Review/Approve 2020-2021 First Interim Report
- 8.3 Review/Accept Annual Certification Regarding Workers' Compensation with Shasta-Trinity Schools Insurance Group
- 8.4 Review/Approve:
  - BP /AR 4119.11/4219.11/4319.11 Sexual Harassment
  - AR 4119.12/4219.12/4319.12 Title IX Sexual Harassment Complaint Procedures
  - AR 5145.71 Title IX Sexual Harassment Complaint Procedures
  - BP/AR/E 6161.1 Selection and Evaluation of Instructional Materials

## **9.0 Future Business**

- 9.1 Next board meetings -
  - Annual Organizational Meeting -Monday, December 14, 2020, at 4:00pm.
  - Regular Meeting- January 14, 2020 4:00pm

## **10.0 Adjourn to Closed Session**

- 10.1 Pursuant to Government Code 4957 Personnel or 54956.9 Litigation
- 10.2 Review Superintendent Contract- 2020-2021

## **11.0 Return to Open Session**

## **12.0 Adjourn**

# Burnt Ranch Elementary School District

## Board of Trustees Regular Meeting

Burnt Ranch Elementary School  
251 Burnt Ranch School Road  
Burnt Ranch, California

*\*Meeting will be available remotely via ZOOM. Please call (530) 629-2543 before 3:00pm on 11/12/20 for information regarding remote access.*

**Thursday, November 12, 2020**  
**4:00pm Regular Meeting**

### Minutes

**1.0 Formal Opening**

- 1.1 Call to Order – *Board President Cyn Van Fleet called the meeting to order at 4:02pm.*
- 1.2 Roll Call – *Board members present were Cyn Van Fleet, James King, Joshua McKnight, and Michael Harding. Sarah Brown was absent. Also, present were Superintendent Kathleen Graham, Principal Kristi Holland-Kilgore and Robin Dummer.*
- 1.3 Additions or Changes to Agenda - *No additions or changes*

**2.0 Public Communication:** Persons wishing to address the Board on any item except personnel are invited to do so at this time. In the interest of time and order, presentations from the public are limited to three minutes per person, per topic. Please state your name and address before speaking. In accordance with the Brown Act, unless an item has been placed on the agenda there shall be no action taken. The Board may 1) acknowledge receipts of the information; 2) refer to staff for further study; 3) refer the matter to the next agenda.

**3.0 Accept Open Session Agenda**

Motion by James King Second by Joshua McKnight Vote 4-0

**4.0 Consent Agenda:** The following consent agenda items are considered to be routine by the District Board and will be enacted with one motion. There will be no separate discussion of items unless a Board member so requests, in which the items will be considered following approval of the Consent Agenda.

- 4.1 Minutes – October 8, 2020
  - 4.2 Warrants – October 1, 2020 to November 4, 2020
- Agenda items 4.1 Minutes and 4.2 passed by Consent. Vote 4-0*

**5.0 Correspondence**

- 5.1 Division of State Architect  
Re: Certification of Completion
- 5.2 Sarah Supahan, TCOE Superintendent of Schools  
Re: Learning Continuity Plan

**6.0 Reports**

6.1 Building Projects  
Kathleen reported –  
**School:** *Received the Certification of Completion. No new updates from Colburn Electric. The fire system is working and the installer of the hydrant is trouble- shooting the problem and will be working on a repair soon. We have a lock for the functioning hydrant.*

**Well:** The drillers were not able to get water as deep as we had wanted. The water found is being tested and we should have the results back this week. If all tests come back okay, then we can ask for a variance from OPSC/DSA and develop the well. Just like our existing well, the water will need to be regularly tested and treated.

**Generator:** We ran into a setback with the generator project. OPSC informed us about their concern that the funding of a generator for our school would set precedent for other schools around the state. They strongly suggested that we apply for a Community Power Resiliency Allocation to Special Districts Program RFP grant for a generator through Cal OES (Office of Emergency Services). There was a very tight deadline (about a week) but with Jeff Morris's considerable help we were able to get it done and submitted by the October 30 deadline. We asked for the maximum amount possible - \$300,000- as that is our expected need. We hope to hear by mid-December if we were successful. If we are not awarded the grant, we will be able to use that to strengthen our Financial Hardship request with OPSC.

6.2 Superintendent – Kathleen reported the following:

11/16/20 –Staff Covid Tests at BRS- to be administered by School Nurse Sheree Beans  
Board Members- Mike and Josh will be sworn in for their next terms at the first board meeting in December. Sarah did not file for her position so we are advertising for it. Anyone interested in serving, including Sarah, will need to write a letter of interest and the board can interview and appoint in December. The notice is posted at the school, the Post Office, and in Trinity Village.  
Plans: The Budget Overview for Parents, which aligns the 2019-20 LCAP with the 2020-21 Learning Continuity Plan, needs board approval by 12/15/20. The SARC (School Accountability Report Card) will be brought to the board in January.

6.3 Business – Robin Dummer reported audit week was October 26-30 and she provided them with statements, invoices, answered payroll questions and discussed the building project. There was also a Trinity County Business meeting via zoom. She was provided with some updates to use for First Interim. First Interim is due to TCOE by 12/15/20. Expect a PowerPoint and a spreadsheet, as well as SACS forms. Michael Harding requested a PG&E comparison of current cost verses prior to school construction.

6.4 Principal – Kristi reported the following:

Love and Logic Parenting Virtual Classes-Betsy and Sophia are attending Thursday evenings  
10/12 Teacher Professional Development and Work Day at Burnt Ranch School.

Morning: PD - iReady and Step-Up to Writing

Afternoon: Teachers Meeting & Planned Harvest Festival

10/15 Native American Basket presentation--Credentialed teacher from Hoopa, Wes Crawford, gave a beautiful presentation.

10/26-30 Red Ribbon Week –organized by Mrs. West and Club Live/7<sup>th</sup>-8<sup>th</sup> graders

10/30 Harvest Festival—The staff worked really hard and collaboratively to ensure this was a successful event. The 7<sup>th</sup>/8<sup>th</sup> graders work ethic was impressive and they will be recognized at the awards assembly.

11/10--School Picture Day-parent Jessica Crawford w/some advice/support from Belia Stephens

11/11 Veterans Day- No school

**Upcoming:**

11/13 End of First Trimester --We've completed one-third of the school year!

11/17-20 Parent/Teacher conferences (in-person, unless a parent requests otherwise) Minimum Days

11/19 Ms. Holland-Kilgore's Annual Feast will occur, but will be for students only this year.

11/20- First Trimester Awards Assembly

11/23-27 Thanksgiving Break

Virtual Winter Musical Presentation--Irene is putting this together

Classrooms will be celebrating the holidays the last week of school before winter break-different this year, but will still occur!

12/21-1/1--Winter Break (12/18 is a minimum day)

- 6.5 Enrollment and attendance – 69 students
- 6.6 Staff – Nothing reported

**7.0 General Business**

- 7.1 Review/Approve the 2020-2021 School Plan for Student Achievement (SPSA)  
*James King made a motion to approve the 2020-21 School Plan for Student Achievement; Michael Harding seconded the motion. Vote unanimous – 4-0*
- 7.2 Review/Approve Williams Quarterly Report  
*Joshua McKnight motioned to approve the Williams Quarterly Report; Michael Harding seconded the motion. Vote unanimous – 4-0*
- 7.3 Review/Approve the following Board Policies:
  - E 1113 District and School Websites
  - BP/AR 4157/4257/4357 Employee Safety
  - BP/AR 5145.7 Sexual Harassment*Michael Harding made a motion to approve the board policies; James King seconded the motion. Vote unanimous 4-0*
- 7.4 Discussion Staff Evaluations - *Kathleen reported she has informed the certificated staff that she will beginning to do informal and formal observations. Cyn reminded the board that they need to do an evaluation of Kathleen.*

**8.0 Future Business**

Next board meeting:  
 Regular Board Meeting-Thursdays, December 10, 2020 at 4:00pm  
 Annual Organizational Meeting – Monday, December 14, 2020 4:00pm –  
*Board members confirmed date, time and location of the Annual Organizational Meeting*

**9.0 Adjourn to Closed Session – No closed session required**

- 9.1 Pursuant to Government Code 54957 Personnel or 54956.9 Litigation

**10.0 Return to Open Session n/a**

**11.0 Adjourn – Cyn Van Fleet adjourned the meeting at 5:30pm.**

Checks Dated 11/10/2020 through 12/02/2020 Board Meeting Date December 10, 2020

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
5224887	11/10/2020	California Safety Company	01-5800	Oct Nov Fires Alarm Monitoring		80.00
5224888	11/10/2020	North Coast Laboratories Inc	01-5560	Water Test		50.00
5224889	11/10/2020	Pacific Gas & Electric	01-5510	October 2020 Electric		2,356.82
5225014	11/18/2020	Kilgore, Kristi F	01-4300	Cafe Food & LLM Supplies	54.24	
			13-4700	Cafe Food & LLM Supplies	40.02	
5225015	11/18/2020	Frontier	01-5920	October 2020 Telephone Service		94.26
5225016	11/18/2020	Mendes Supply Company	01-4300	Cleaner & Sanitizer		321.10
5225017	11/18/2020	Office Depot Business Credit	01-4300	Supplies Paper		234.57
5225018	11/18/2020	Producers Dairy	13-4700	Milk & Juice - Cafe		37.13
5225019	11/18/2020	Shasta Tr Schools Ins Dental	01-9580	STSIG Dental Premium Dec 2020		81.95
5225020	11/18/2020	Shasta Tr Schools Ins Medical	01-9580	STSIG Medical Premium Dec 2020		991.08
5225021	11/18/2020	Shasta Tr Schools Ins Vision	01-9580	STSIG Vision Premium Dec 2020		10,364.00
5225022	11/18/2020	Tom's Trash	01-5550	Trash & recycling services		237.60
5225221	12/02/2020	Holland, Samantha R	13-4700	Cafe Food		410.23
5225222	12/02/2020	Coast Central Credit Union	01-4300	Arlo, Google & ASES	344.96	69.22
				Kindle - LLM Student devices	718.32	1,063.28
5225223	12/02/2020	Compliance Associates, Inc.	01-5300	Transportation Consortium Enrollment		300.00
5225224	12/02/2020	CSM, Inc.	01-5800	E-rate July, August, Sept		750.00
5225225	12/02/2020	Ecolab	01-4300	Cleaner and sanitizer		575.86
5225226	12/02/2020	Foothill Fire Protection, Inc.	01-5800	Fire Pump Repair - Cummins, Hotel & Labor		7,946.44
5225227	12/02/2020	State Water Resources Control Board	01-5300	Letter Id L0008467937 Water Rights	300.00	
				Letter Id L0008490217 Water Rights	300.00	600.00
5225228	12/02/2020	SYNCB/AMAZON	01-4300	Bleacher - LLM Extra Gym Spacing	1,501.49	
				Kindle for 1/2 DL learning	1,077.48	
				LLM - Additional Desks Needed for Spacing	416.98	
				LLM - Replace cutting boards & paper for student packets	187.82	
				Replace mop heads - LLM	85.24	3,269.01
5225229	12/02/2020	Valley Pacific Petroleum Services, Inc	01-4300	Bus Fuel		445.44
<b>Total Number of Checks</b>					<b>21</b>	<b>30,277.99</b>

Fund Summary

Fund	Description	Check Count	Expensed Amount
01	General Fund	19	30,086.80

4.2

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
--------------	------------	---------------------	-------------	---------	-----------------	--------------

Fund Summary

Fund	Description	Check Count	Expensed Amount
13	Cafeteria Special Reserve	3	191.19
	Total Number of Checks	21	30,277.99
	Less Unpaid Sales Tax Liability		.00
	<b>Net (Check Amount)</b>		<b>30,277.99</b>

4.2

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.



SHASTA-TRINITY SCHOOLS  
INSURANCE GROUP

Serving Schools Since 1980

---

## MEMORANDUM

---

**DATE:** December 4, 2020  
**TO:** WORKERS' COMPENSATION PROGRAM MEMBERS  
**FROM:** Brooks Rice, Executive Director  
**SUBJECT:** 2021 ANNUAL CERTIFICATION (EC42141) REGARDING WORKERS'  
COMPENSATION

Pursuant to EC 42141, each member district shall advise its Governing Board if there is an estimated unfunded liability for Workers' Compensation.

### STATEMENT

The Shasta-Trinity Schools Insurance Group JPA has total assets sufficient to pay the Workers' Compensation self-insured claims and therefore has no unfunded liabilities.

Please advise your Governing Board of compliance with the Education Code by reporting the above statement.

If you have any questions, please do not hesitate to contact the JPA at 530-221-6444.

Thank you,

Brooks Rice  
Executive Director



**Personnel****BP 4119.11 (a)****4219.11****4319.11****SEXUAL HARASSMENT**

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Governing Board is committed to providing a safe work environment that is free of harassment and intimidation. The Board prohibits sexual harassment against district employees and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

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 employees and others to whom the policy may apply
3. Ensuring prompt, thorough, fair, and equitable 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

**Sexual Harassment Reports and Complaints**

District employees who feel that they have been sexually harassed in the performance of their district responsibilities or who have knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to their direct supervisor, a district administrator, or the district's Title IX Coordinator. Employees may bypass their supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the Title IX Coordinator.

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures or AR 4030 - Nondiscrimination in Employment, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets the requirements of AR 4030.

(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)

The Title IX Coordinator shall offer supportive measures to the complainant and respondent, as deemed appropriate under the circumstances.

Upon investigation of a sexual harassment complaint, any district employee found to have engaged or participated in sexual harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Reports)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

**SEXUAL HARASSMENT** (continued)

**BP 4119.11 (b)  
4219.11  
4319.11**

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 Sexual harassment; distribution of information

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11009 Employment discrimination

11021 Retaliation

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

11034 Terms, conditions, and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1681-1688 Title IX prohibition against discrimination

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.9 Nondiscrimination on the basis of sex in education programs or activities

106.51-106.61 Nondiscrimination on the basis of sex in employment in education program or activities

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:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Promising Practices for Preventing Harassment, November 2017

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 for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

**Personnel**

**AR 4119.11 (a)**

**4219.11**

**4319.11**

**SEXUAL HARASSMENT**

The following administrative regulation shall apply to all allegations of sexual harassment involving employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

**Definitions**

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature, regardless of whether or not the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual.
3. 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.
4. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the district.

(cf. 4030 - Nondiscrimination in Employment)

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on the person's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)

**Examples of Sexual Harassment**

Examples of actions that might constitute sexual harassment under state or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

**SEXUAL HARASSMENT** (continued)

**AR 4119.11 (b)**  
**4219.11**  
**4319.11**

**Title IX Coordinator/Compliance Officer**

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures, as well as to oversee, investigate, and resolve sexual harassment complaints processed under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

Administrator  
 Burnt Ranch School  
 251 Burnt Ranch School Road  
 Burnt Ranch, CA 95527  
 (530) 629-2543  
[kgraham@tcoek12.org](mailto:kgraham@tcoek12.org) or [kkilgore@bresd.org](mailto:kkilgore@bresd.org)

**Training**

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)  
 (cf. 4300 - Administrative and Supervisory Personnel)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The district's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment
2. The types of conduct that constitute sexual harassment
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment

9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district's obligation to conduct an effective workplace investigation of a harassment complaint
10. What to do if the supervisor is personally accused of harassment
11. The essential elements of the district's anti-harassment policy, and how to use the policy if a harassment complaint is filed  
Employees shall receive a copy of the district's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received.
12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR 11024)

#### Notifications

The Superintendent or designee shall notify employees that the district does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

The district shall notify employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator. (34 CFR 106.8)

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)
3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site (34 CFR 106.8)
5. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations (34 CFR 106.8)

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or the district that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law

**SEXUAL HARASSMENT** (continued)

**AR 4119.11 (b)**  
**4219.11**  
**4319.11**

3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

In addition, the district shall post, in a prominent and accessible location, the DFEH poster on discrimination in employment and the illegality of sexual harassment and the DFEH poster regarding transgender rights. (Government Code 12950)

**Complaint Procedures**

All complaints and allegations of sexual harassment by and against employees shall be investigated and resolved in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 - Nondiscrimination in Employment.

If sexual harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, and address any continuing effects.

**Adopted: Burnt Ranch Elementary School District**

**Approved: December 2020**

**Personnel**

AR 4119.12

4219.12

**Title IX Sexual Harassment Complaint Procedures**

4319.12

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee, while in an education program or activity in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.

(cf. 4030 - Nondiscrimination in Employment)

Because the complainant has a right to pursue a complaint under AR 4030 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4030 are concurrently met while implementing the Title IX procedure.

**Reporting Allegations/Filing a Formal Complaint**

An employee who is the alleged victim of sexual harassment may submit a report of sexual harassment to the district's Title IX Coordinator using the contact information listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment or to the employee's direct supervisor or other district administrator, who shall forward the report to the Title IX Coordinator within one day of receiving the report.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the right to file a formal complaint and the process for filing a formal complaint.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.

The Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

**Supportive Measures**

Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures and shall consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures shall be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and not unreasonably burden the other party, including measures designed to

## **Title IX Sexual Harassment Complaint Procedures**

**AR 4119.12, 4219.12, 4319.12(b)**

protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines, modifications of work schedules, mutual restrictions on contact, changes in work locations, leaves of absence, increased security, and monitoring of certain areas of the campus. (34 CFR 106.30, 106.44)

The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

### **Emergency Removal**

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

### **Dismissal of Complaint**

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to AR 4030 - Nondiscrimination in Employment as applicable.

### **Informal Resolution Process**

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process

### **Written Notice**

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process



**Title IX Sexual Harassment Complaint Procedures**

AR 4119.12, 4219.12, 4319.12(c)

2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.  
If, during the course of the investigation, new Title IX allegations arise about the complainant or additional allegations to the parties.
3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence
5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

**Investigation Procedures**

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45)

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

## **Title IX Sexual Harassment Complaint Procedures**

**AR 4119.12, 4219.12, 4319.12(d)**

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

### **Written Decision**

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

After the investigative report has been sent to the parties but before reaching a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the district's code of conduct or policies to the facts
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

### **Appeals**

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome
4. Issue a written decision describing the result of the appeal and the rationale for the result
5. Provide the written decision simultaneously to both parties

**Title IX Sexual Harassment Complaint Procedures**

**AR 4119.12, 4219.12, 4319.12(e)**

An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

**Remedies**

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

**Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

**Record-Keeping**

The Superintendent or designee shall maintain, for a period of seven years: (34 CFR 106.45)

1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.
2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.
3. All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public.

(cf. 1113 - District and School Web Sites)

(cf. 3580 - District Records)

**Title IX Sexual Harassment Complaint Procedures****AR 4119.12, 4219.12, 4319.12(f)**

## 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

48985 Notices, report, statements and records in primary language

## 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

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

## UNITED STATES CODE, TITLE 20

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

## UNITED STATES CODE, TITLE 34

12291 Definition of dating violence, domestic violence, and stalking

## 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

106.1-106.82 Nondiscrimination on the basis of sex in education programs

## COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2000, 9th Cir.) 208 F.3d 736

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

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

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

## 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/about/offices/list/ocr>**Adopted: Burnt Ranch Elementary School District****Approved: December 2020**

## SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS

The Governing Board desires that district instructional materials, as a whole, present a broad spectrum of knowledge and viewpoints, reflect and value society's diversity, and enhance instructors' ability to educate all students through the use of multiple teaching strategies and technologies. The Board shall adopt instructional materials based on a determination that such materials are an effective learning resource to help students achieve grade-level competency and that the materials meet criteria specified in law. Textbooks, technology-based materials, and other educational materials shall be aligned with academic content standards and the district's curriculum to ensure that they effectively support the district's adopted courses of study.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 0415 - Equity)

(cf. 0440 - District Technology Plan)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6000 - Concepts and Roles)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6162.5 - Student Assessment)

(cf. 6163.1 - Library Media Centers)

The Board shall select instructional materials for use in grades K-8 that have been approved by the State Board of Education (SBE) or that have, during the district's review process, been determined to be aligned with the state academic content standards adopted by SBE. (Education Code 60200, 60210)

In selecting or adopting instructional materials, the Board shall consider the recommendation of the Superintendent or designee and/or an advisory committee established to review the materials.

### Public Hearing on Sufficiency of Instructional Materials

The Board shall annually conduct one or more public hearings on the sufficiency of the district's instructional materials, including textbooks, technology-based materials, other educational materials, and tests. Technology-based materials include, but are not limited to, software programs, video disks, compact disks, optical disks, video and audio tapes, lesson plans, databases, and the electronic equipment required to make use of those materials by students and teachers as a learning resource. (Education Code 60010, 60119)

The hearing shall be held on or before the end of the eighth week from the first day students attend school for that year. (Education Code 60119)

The Board encourages participation by parents/guardians, teachers, interested community members, and bargaining unit leaders at the hearing. Ten days prior to the hearing, the Superintendent or designee shall post a notice in three public places within the district containing the time, place, and purpose of the hearing. The hearing shall not take place during or immediately following school hours. (Education Code 60119)  
(cf. 9322 - Agenda/Meeting Materials)

At the hearing(s), the Board shall determine, through a resolution, whether each student in each school, including each English learner, has sufficient textbooks or other instructional materials that are aligned to the content standards adopted by SBE and consistent with the content and cycles of the curriculum framework adopted by SBE in each of the following subjects: (Education Code 60119)

1. Mathematics  
(cf. 6142.92 - Mathematics Instruction)
2. Science  
(cf. 6142.93 - Science Instruction)
3. History-social science  
(cf. 6142.94 - History-Social Science Instruction)

## SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS BP 6161.1(b)

4. English language arts, including the English language development component of an adopted program  
(cf. 6142.91 - Reading/Language Arts Instruction)  
(cf. 6174 - Education for English Learners)
5. World language  
(cf. 6142.2 - World Language Instruction)
6. Health  
(cf. 6142.8 - Comprehensive Health Education)

In making these determinations, the Board shall consider whether each student has sufficient textbooks or other instructional materials to use in class and to take home. This does not require that each student have two sets of materials. However, materials shall not be considered sufficient if they are photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage. (Education Code 60119)

If materials are in a digital format, they shall be considered sufficient as long as each student, at a minimum, has and can access the same materials in the class and to take home as all other students in the same class or course in the district, and has the ability to use and access them at home. (Education Code 60119)

If the Board determines that there are insufficient textbooks or other instructional materials, the district shall provide information to classroom teachers and to the public setting forth, for each school in which an insufficiency exists, the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each student does not have sufficient textbooks or instructional materials. The Board shall take any action to ensure that each student has sufficient materials within two months of the beginning of the school year in which the determination is made. (Education Code 60119)

The degree to which every student has sufficient access to standards-aligned instructional materials shall be included in the district's local control and accountability plan. (Education Code 52060)  
(cf. 0460 - Local Control and Accountability Plan)

### Complaints

Complaints concerning instructional materials shall be handled in accordance with BP/AR 1312.2 - Complaints Concerning Instructional Materials or AR 1312.4 - Williams Uniform Complaint Procedures, as applicable.

(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)

#### Legal Reference:

#### EDUCATION CODE

220 Prohibition against discrimination  
1240 County superintendent, general duties  
33050-33053 General waiver authority  
33126 School accountability report card  
35272 Education and athletic materials  
44805 Enforcement of course of studies; use of textbooks, rules and regulations  
49415 Maximum textbook weight  
51501 Nondiscriminatory subject matter  
52060-52077 Local control and accountability plan  
60000-60005 Instructional materials, legislative intent  
60010 Definitions  
60040-60052 Instructional requirements and materials  
60060-60063.5 Requirements for publishers and manufacturers  
60070-60076 Prohibited acts (re instructional materials)  
60110-60115 Instructional materials on alcohol and drug education  
60119 Public hearing on sufficiency of materials

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS BP 6161.1(c)**

60200-60210 Elementary school materials  
60226 Requirements for publishers and manufacturers  
60350-60352 Core reading program instructional materials  
60400-60411 High school textbooks  
60510-60511 Donation for sale of obsolete instructional materials  
60605 State content standards  
60605.8 Common Core State Standards  
60605.86-60605.88 Supplemental instructional materials aligned with Common Core State Standards

**CODE OF REGULATIONS, TITLE 5**

9505-9530 Instructional materials

**Management Resources:**

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

Instructional Materials FAQ

01-05 Guidelines for Piloting Textbooks and Instructional Materials, rev. January 2015

Standards for Evaluating Instructional Materials for Social Content, 2013

**WEB SITES**

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

Association of American Publishers: <http://www.publishers.org>

California Academic Content Standards Commission, Common Core State Standards: <http://www.scoe.net/castandards>

California Department of Education: <http://www.cde.ca.gov>

**Instruction****AR 6161.1(a)****SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS****Review Process**

The district's review process for evaluating instructional materials shall involve teachers in a substantial manner and shall encourage the participation of parents/guardians and community members in accordance with Education Code 60002. The review process may also involve administrators, other staff who have subject-matter expertise, and students as appropriate. The Superintendent or designee shall seek input from stakeholders with diverse backgrounds and perspectives.  
(cf. 6020 - Parent Involvement)

If the district is considering the use of instructional materials for grades K-8 that have not been adopted by the State Board of Education (SBE), the Superintendent or designee shall ensure that a majority of the participants in the district's review process are classroom teachers who are assigned to the subject area or grade level of the materials. (Education Code 60210)

The Superintendent or designee shall present to the Governing Board recommendations for instructional materials and documentation that supports the recommendations.

All recommended instructional materials shall be available for public inspection at the district office.  
(cf. 5020 - Parent Rights and Responsibilities)

When possible, the district may pilot instructional materials in a representative sample of classrooms for a specified period of time during a school year, in order to determine the extent to which the materials support the district's curricular goals and academic standards. Feedback from teachers piloting the materials shall be made available to the Board before the materials are adopted.

**Criteria for Selection and Adoption of Instructional Materials**

In recommending instructional materials for adoption by the Board, the Superintendent or designee shall ensure that the materials:

1. Are aligned to the content standards adopted by SBE and consistent with the content and cycles of the curriculum framework adopted by SBE  
(cf. 6011 - Academic Standards)  
  
For grades K-8, only instructional materials on the list of materials adopted by SBE and/or other instructional materials that have not been adopted by SBE but are aligned with the state academic content standards or the Common Core State Standards may be recommended for selection.  
(Education Code 60200, 60210)  
(cf. 6161.11 - Supplementary Instructional Materials)
2. Do not reflect adversely upon persons because of any characteristic specified in law and BP 0410 - Nondiscrimination in District Programs and Activities, nor contain any sectarian or denominational doctrine or propaganda contrary to law (Education Code 51501, 60044)  
(cf. 0410 - Nondiscrimination in District Programs and Activities)
3. To the satisfaction of the Board, are accurate, objective, current, and suited to the needs and comprehension of district students at their respective grade levels (Education Code 60045)
4. With the exception of literature and tradebooks, use proper grammar and spelling (Education Code 60045)
5. Do not expose students to a commercial brand name, product, or corporate or company logo unless the Board makes a specific finding that the use is appropriate based on one of the following:  
(Education Code 60048, 60200)
  - a. The commercial brand name, product, or corporate or company logo is used in text for an educational purpose as defined in guidelines or frameworks adopted by SBE.



**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS AR 6161.1(b)**

- b. The appearance of a commercial brand name, product, or corporate or company logo in an illustration is incidental to the general nature of the illustration.  
(cf. 1325 - Advertising and Promotion)
- 6. Meet the requirements of Education Code 60040-60043 for specific subject content, including, but not limited, accurately portraying society's cultural and racial diversity
- 7. Support the district's adopted courses of study and curricular goals  
(cf. 6141 - Curriculum Development and Evaluation)  
(cf. 6142.2 - World Language Instruction)  
(cf. 6142.8 - Comprehensive Health Education)  
(cf. 6142.91 - Reading/Language Arts Instruction)  
(cf. 6142.92 - Mathematics Instruction)  
(cf. 6142.93 - Science Instruction)  
(cf. 6142.94 - History-Social Science Instruction)  
(cf. 6143 - Courses of Study)  
(cf. 6146.1 - High School Graduation Requirements)
- 8. Contribute to a comprehensive, balanced curriculum
- 9. Demonstrate reliable quality of scholarship as evidenced by:
  - a. Accurate, up-to-date, and well-documented information
  - b. Objective presentation of diverse viewpoints
  - c. Clear, concise writing and appropriate vocabulary
  - d. Thorough treatment of subject matter
- 10. Provide for a wide range of materials at all levels of difficulty, with appeal to students of varied interests, abilities, and developmental levels
- 11. Stimulate discussion of contemporary issues and improve students' thinking and decision-making skills
- 12. As appropriate, have corresponding versions available in languages other than English
- 13. Include high-quality teacher's guides
- 14. When available, include options for lighter weight materials in order to help minimize any injury to students by the combined weight of instructional materials

In addition to meeting the above criteria as applicable, technology-based materials shall:

- 1. Be both available and comparable to other, equivalent instructional materials (Education Code 60052)
- 2. Be accessible to all students, including economically disadvantaged students, students with disabilities, and English learners
- 3. Protect the privacy of student data  
(cf. 6157 - Distance Learning)

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS**

**Exhibit 1**

**RESOLUTION ON SUFFICIENCY OF INSTRUCTIONAL MATERIALS**

Whereas, the Governing Board of the Burnt Ranch Elementary School District in order to comply with the requirements of Education Code 60119, held a public hearing on (date), at (time) o'clock, which is on or before the eighth week of school (between the first day that students attend school and the end of the eighth week from that day) and which did not take place during or immediately following school hours, and;

Whereas, the Board provided at least 10 days notice of the public hearing by posting it in at least three public places within the district stating the time, place, and purpose of the hearing, and;

Whereas, the Board encouraged participation by parents/guardians, teachers, members of the community, and bargaining unit leaders in the public hearing, and;

Whereas, information provided at the public hearing detailed the extent to which sufficient textbooks or instructional materials were provided to all students, including English learners, in the Burnt Ranch Elementary School District and;

Whereas, the definition of "sufficient textbooks or instructional materials" means that each student, including each English learner, has a standards-aligned textbook or instructional materials to use in class and to take home, which may include materials in a digital format but shall not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage, and;

Whereas, textbooks or instructional materials in core curriculum subjects should be aligned with state academic content standards and/or the Common Core State Standards adopted by the State Board of Education;

**Finding of Sufficient Textbooks or Instructional Materials**

Whereas, sufficient standards-aligned textbooks or instructional materials that are consistent with the cycles and content of the curriculum frameworks were provided to each student, including each English learner, in the following subjects:

\* Mathematics: (List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)

\_\_\_\_\_  
\_\_\_\_\_

\* Science: (List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)

\_\_\_\_\_  
\_\_\_\_\_

\* History-social science: (List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)

\_\_\_\_\_  
\_\_\_\_\_

\* English language arts, including the English language development component of an adopted program: (List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)

\_\_\_\_\_  
\_\_\_\_\_

**SELECTION AND EVALUATION OF INSTRUCTIONAL MATERIALS E 6161.1(b)**

\* World/foreign language: (List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)

---

---

\* Health: (List adopted textbooks or instructional materials for this subject for each grade level or school as well as applicable state adoption cycle.)

---

---

Therefore, it is resolved that for the (year) school year, the Burnt Ranch Elementary School District has provided each student with sufficient standards-aligned textbooks or instructional materials that are consistent with the cycles and content of the curriculum frameworks.

**Finding of Insufficient Textbooks or Instructional Materials**

Whereas, information provided at the public hearing and to the Board at the public meeting detailed that insufficient standards-aligned textbooks or instructional materials were provided to students in the following subjects and grade levels at district schools: (List the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in mathematics, science, history-social science, English language arts, world/foreign language, and health.)

---

---

Whereas, sufficient textbooks or instructional materials were not provided at each school listed above due to the following reasons: (List the reasons that each student does not have sufficient instructional materials in each subject and grade level listed above.)

---

---

Therefore, it is resolved, that for the (year) school year, the Burnt Ranch Elementary School District has not provided each student with sufficient textbooks or instructional materials that are consistent with the cycles and content of the curriculum framework, and;

Be it further resolved, that the following actions will be taken to ensure that all students have sufficient standards-aligned textbooks or instructional materials in all subjects that are consistent with the cycles and content of the curriculum frameworks within two months of the beginning of the school year in which this determination is made. (List actions to be taken to resolve insufficiency.)

---

---

---

PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at a meeting, by the following vote:

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

## Students

AR 5145.71

### Title IX Sexual Harassment Complaint Procedures

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a student while in an education program or activity in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

All other sexual harassment complaints or allegations brought by or on behalf of students shall be investigated and resolved in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.

Because the complainant has a right to pursue a complaint under BP/AR 1312.3 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for BP/AR 1312.3 are concurrently met while implementing the Title IX procedure.

(cf. 1312.3 - Uniform Complaint Procedures)

#### Reporting Allegations/Filing a Formal Complaint

A student who is the alleged victim of sexual harassment may submit a report of sexual harassment to the district's Title IX Coordinator using the contact information listed in AR 5145.7 - Sexual Harassment or to any other available school employee, who shall forward the report to the Title IX Coordinator within one day of receiving the report.

(cf. 5145.7 - Sexual Harassment)

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the right to file a formal complaint and the process for filing a formal complaint.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.

The Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

#### Supportive Measures

Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures and shall consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures shall be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing

## **Title IX Sexual Harassment Complaint Procedures**

**AR 5145.71 (b)**

of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. (34 CFR 106.30, 106.44)

The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

### **Emergency Removal**

A student shall not be disciplined for alleged sexual harassment under Title IX until the investigation has been completed. However, on an emergency basis, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

### **Dismissal of Complaint**

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer enrolled or employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to BP/AR 1312.3 - Uniform Complaint Procedures as applicable.

### **Informal Resolution Process**

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process

**Title IX Sexual Harassment Complaint Procedures****AR 5145.71 (c)**

3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

**Written Notice**

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence
5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

**Investigation Procedures**

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

**Title IX Sexual Harassment Complaint Procedures**

**AR 5145.71 (d)**

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45)

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

**Written Decision**

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

After the investigative report has been sent to the parties but before reaching a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the district's code of conduct or policies to the facts
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

**Appeals**

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties

**Title IX Sexual Harassment Complaint Procedures****AR 5145.71 (e)**

2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome
4. Issue a written decision describing the result of the appeal and the rationale for the result
5. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

**Remedies**

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

**Corrective/Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others
4. Positive behavior support
5. Referral of the student to a student success team  
(cf. 6164.5 - Student Success Teams)
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law  
(cf. 6145 - Extracurricular and Cocurricular Activities)



**Title IX Sexual Harassment Complaint Procedures****AR 5145.71 (f)**

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report)

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

**Record-Keeping**

The Superintendent or designee shall maintain, for a period of seven years: (34 CFR 106.45)

1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.
2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.
3. All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public.

(cf. 1113 - District and School Web Sites)

(cf. 3580 - District Records)

**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

48985 Notices, report, statements and records in primary language

**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**

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

**UNITED STATES CODE, TITLE 20**

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

**UNITED STATES CODE, TITLE 34**

12291 Definition of dating violence, domestic violence, and stalking

**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

**Title IX Sexual Harassment Complaint Procedures****AR 5145.71 (g)**

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.82 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2000, 9th Cir.) 208 F.3d 736

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

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

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

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

FEDERAL REGISTER

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, May 19, 2020, Vol. 85, No. 97, pages 30026-30579

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Q&amp;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/ocr>**Adopted: Burnt Ranch Elementary School District****Approved: December 2020**