

## **St. HOPE Public Schools Sexual Harassment Policy (Student)**

The St. HOPE Public Schools (SHPS) Board of Directors is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits sexual harassment against students in the educational setting by an employee, student or third party. Under federal and state law, the term sexual harassment includes sexual violence. The Board also prohibits retaliatory behavior or action against any person who reports, testifies about, files a complaint, or otherwise participates in a SHPS complaint, investigation or grievance process.

### **Scope and Definitions Related to Sexual Harassment Complaints**

Prohibited 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 made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (*Education Code 212.5; 5 CCR 4916*)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment; or under Title IX a hostile environment has been created if the unwelcome conduct of a sexual nature is sufficiently serious that it denies or limits the student's ability to participate in or benefit from the educational program.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any SHPS program or activity.

### **Complaint Process/Grievance Procedure**

***Uniform Complaint Procedures.*** All reports and complaints alleging sexual harassment or sexual violence shall be addressed immediately in accordance with this policy and the SHPS Uniform Complaint Policy and Procedures.

***SHPS Compliance Officer*** The following individual is designated to handle complaints under the Uniform Complaint Policy and Procedures regarding sexual harassment prohibited by BP 5145.7 and to answer inquiries regarding the SHPS's sexual harassment policies. This individual is also the SHPS's Title IX Coordinator:

Emily Heizer  
Director of Credential Advising and Conflict Resolution  
2315 34<sup>th</sup> Street  
Sacramento, CA 95817  
916-649-7900  
eheizer@sthopepublicschools.org

**Student Reports.** Any student who believes they have been subjected to sexual harassment or who has witnessed sexual harassment may report the conduct to any school employee.

**School Employee Observation and Reports.** Within one school day of receiving a sexual harassment report or complaint from a student, parent/guardian or other person, the school employee shall report it to the site Principal/designee.

Any school employee who observes an incident of sexual harassment involving a student shall immediately intervene when safe to do so and shall, within one school day, report the conduct to the Principal/designee, whether or not the target of the harassment makes a report or files a complaint. (*Education Code 234.1*)

**Reports about Principal/designee.** Where a sexual harassment report or complaint involves the Principal/designee to whom the report would ordinarily be communicated, the employee who receives the report or who observes the incident shall instead report to the SHPS Compliance Officer within one school day.

**Principal Actions after Receiving a Report.** The Principal/designee shall, within one school day of receiving the report from a student, an employee or a third party, forward the complaint itself or a transcription of the oral report to the SHPS Compliance Officer.

The Principal/designee shall also inform the student and/or student's parent/guardian of the right to file a written complaint through the Uniform Complaint Policy and Procedures. The Principal/designee shall provide a free copy or a link to the Uniform Complaint Policy and Procedures. The Principal/designee shall document when and how they informed the student and/or the parent/guardian.

**Reports about Adult Sexual Relationships with Students.** In all allegations of an employee or third party adult engaging in a sexual relationship with a student or a former student, the SHPS Compliance Officer shall assess whether a referral is necessary to either law enforcement or other appropriate agency.

**Other Complaint Options.** A student may also file a sex discrimination complaint with the Office for Civil Rights (OCR) of the United States Department of Education. Instructions for filing a complaint can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

## **Disciplinary Action**

If it is determined that an employee has violated this policy by engaging in sexual harassment, sexual violence, a sexual relationship with a student, or retaliation, the SHPS shall take action to address the violation and any substantiated risk, including appropriate disciplinary action. Disciplinary action may include action to dismiss the employee, in accordance with law and board policy. (*cf. AR 4218 – Dismissal/Suspension/Disciplinary Action; Education Code sections 44932 et seq.*)

Any student who engages in sexual harassment or sexual violence in the educational setting, in violation of this policy, shall be subject to disciplinary action. Suspensions and recommendations for expulsion shall follow applicable law. (*Education Code sections 48900 et seq.*)

When disciplinary action is recommended after the uniform complaint process is complete, the SHPS Compliance Officer shall promptly determine the appropriate sanction and forward the matter to the Principal/designee and/or appropriate SHPS administrator who will promptly implement any disciplinary process.

## **Confidentiality**

All complaints and allegations of sexual harassment or sexual violence shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964) *(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*<sup>15]</sup> *(cf. 5125 - Student Records) [16]*

However, when a complainant notifies the SHPS of the harassment but requests confidentiality, the Principal/designee or the SHPS Compliance Officer shall inform the complainant that the request may limit SHPS's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, SHPS will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant notifies the SHPS of the harassment but requests that the SHPS not pursue an investigation, the SHPS will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students.

## **Record-Keeping**

The SHPS Compliance Officer, in consultation with the Superintendent or designee, shall maintain a record of all reported cases of sexual harassment and sexual violence to enable the SHPS to monitor, address, and prevent repetitive harassing behavior in the educational setting.

## **Notifications**

A copy of the SHPS's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (*Education Code 48980; 5 CCR 4917*) *(cf. 5145.6 - Parental Notifications)*
2. Be displayed on the SHPS website, in a prominent location in the main administrative building and in other areas where notices of SHPS rules, regulations, procedures, and standards of conduct are posted (*Education Code 231.5*)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (*Education Code 231.5*)
4. Appear in any school or SHPS publication that sets forth the school's or SHPS's comprehensive rules, regulations, procedures, and standards of conduct (*Education Code 231.5*)
5. Be included in the student handbook
6. Be provided to employees and employee organizations

## **Legal Reference:**

### **EDUCATION CODE**

*200-262.4 Prohibition of discrimination on the basis of sex*

*48900 Grounds for suspension or expulsion*

*48900.2 Additional grounds for suspension or expulsion; sexual harassment*

*48904 Liability of parent/guardian for willful student misconduct*

*48980 Notice at beginning of term*

CIVIL CODE

*51.9 Liability for sexual harassment; business, service and professional relationships*

*1714.1 Liability of parents/guardians for willful misconduct of minor*

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX, discrimination

UNITED STATES CODE, TITLE 42

1983 Civil action for deprivation of rights

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

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

**Management Resources:**

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter Title IX Coordinators, April 2015

Questions and Answers on Title IX and Sexual Violence, April 2014

Dear Colleague Letter Sexual Violence, April 4, 2011 Sexual Harassment: It's Not Academic, September

2008 Revised Sexual Harassment Guidance, 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>