

NEW HOPE ELEMENTARY SCHOOL DISTRICT

Title IX and Gender Equity Policy

New Hope Elementary School District desires to provide a safe school environment that allows all students equal access and opportunities in academic and other educational support programs, services, and activities. New Hope prohibits unlawful discrimination, harassment, intimidation, and bullying of any student based on actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, gender non-conformance, or gender stereotyping; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

New Hope recognizes it is legally responsible for addressing harassment incidents about which it knows or reasonably should have known. New Hope District employees shall take immediate and appropriate action to investigate or otherwise determine what occurred when put on notice that a student has been subjected to harassment.

New Hope Elementary School District Title IX Coordinator

New Hope Elementary School District Title IX Coordinator Janet Stemler (Superintendent/Principal) can be contacted at (209) 794-2376 (ext.14) and jstemler@nhesd.net.

Rights of Pupils and the Public

Information about the rights of students can be found at the [U.S. Department of Education Office of Civil Rights](#) and the [California Department of Education Office for Equal Opportunity](#).

California Education Code section 221.8 provides as follows:

The following list of rights, which are based on the relevant provisions of the federal regulations implementing Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.), may be used by the department for purposes of Section 221.6:

(a) You have the right to fair and equitable treatment and you shall not be discriminated against based on your sex or any reason delineated above.

(b) You have the right to be provided with an equitable opportunity to participate in all academic, extracurricular activities, including athletics.

(c) You have the right to receive equitable treatment and benefits in the provision of all of the following:

(1) Equipment and supplies.

(2) Transportation and daily allowances.

(3) Access to tutoring.

(4) Coaching.

(5) Practice and competitive facilities.

(6) Medical and training facilities and services.

(7) Publicity.

(d) You have the right to have access to a gender equity coordinator to answer questions regarding gender equity laws.

(e) You have the right to contact the State Department of Education and the California Interscholastic Federation to access information on gender equity laws.

(f) You have the right to file a confidential discrimination complaint with the United States Office of Civil Rights or the State Department of Education if you believe you have been discriminated against or if you believe you have received unequal treatment on the basis of your sex, etc..

(g) You have the right to pursue civil remedies if you have been discriminated against.

(h) You have the right to be protected against retaliation if you file a discrimination complaint.

New Hope Elementary School District

Board Policy

Sexual Harassment

BP 5145.7

Students

The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits, at school or at school-sponsored or school-related activities, sexual harassment targeted at any student by anyone. The Board also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment.

The district strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who has experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact his/her teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a district compliance officer. Once notified, the principal or compliance officer shall take the steps to investigate and address the allegation, as specified in the accompanying administrative regulation.

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy.

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence.
2. A clear message that students do not have to endure sexual harassment under any circumstance.
3. Encouragement to report observed incidents of sexual harassment even where the alleged victim of the harassment has not complained.
4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved.
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students.
6. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made.
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the district investigation of a sexual harassment complaint continues.
8. A clear message that, when needed, the district will take interim measures to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment.

Complaint Process and Disciplinary Actions

Sexual harassment complaints by and against students shall be investigated and resolved in accordance with law and district procedures specified in AR 1312.3 - Uniform Complaint Procedures. Principals are responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Upon investigation of a sexual harassment complaint, any student found to have engaged in sexual harassment or sexual violence in violation of this policy shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5144 - Discipline)

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

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Upon investigation of a sexual harassment complaint, any employee found to have engaged in sexual harassment or sexual violence toward any student shall have his/her employment terminated in accordance with law and the applicable collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report)

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

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

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

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in district schools.

(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

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

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

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

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.71 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, (2001, 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
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Q&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>

(3/12 10/14) 9/16

Policy Adopted: 1/14/2020

How to file a Title IX complaint

New Hope Elementary School District (NHESD) has the primary responsibility to insure compliance with applicable state and federal laws and regulations and has established procedures to address allegations of unlawful discrimination, harassment, intimidation, bullying and complaints alleging violation of state or federal laws governing educational programs. NHESD shall investigate and seek to resolve complaints using policies and procedures delineated in the Uniform Complaint procedures adopted by the New Hope Elementary School District Board of Education. The policy is delineated below or can be found within the (NHESD) Student Handbook.

Complaints must be filed in writing with the following compliance officer:

Janet Stemler, Superintendent/Principal
(209) 794-2376 ph (209) 794-2230 fax
26675 Sacramento Blvd, Thornton, CA 95686 (physical)
P.O. Box 238, Thornton, CA 95686 (mailing)

Uniform Complaint Procedures:

Complaints Alleging Discrimination, Harassment, Intimidation, and Bullying:

State and federal law prohibit discrimination in education programs and activities. The District is primarily responsible for compliance with federal and state laws and regulations. (Cal. Code Regs., tit. 5, § 4620.)

Under state law, all pupils have the right to attend classes on school campuses that are safe, secure, and peaceful. (Ed. Code, § 32261) State law requires school districts to afford all pupils equal rights and opportunities in education, regardless of their actual or perceived characteristics,

such as disability (mental and physical), gender (includes gender identity, gender expression, and gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth), actual or potential parental, family, or marital status, pregnancy (including childbirth, false pregnancy, termination of pregnancy, or recovery therefrom), nationality (includes citizenship, country of origin and national origin), immigration status, race or ethnicity (includes ancestry, color, ethnic group identification and ethnic background), religion (includes all aspects of religious belief, observance and practice, including agnosticism and atheism), sexual orientation (heterosexuality, homosexuality or bisexuality), or association with a person or group with one or more of these actual or perceived characteristics. (Ed. Code, §§ 210-214, 220 et seq., 234 et seq., Cal. Code Regs., tit. 5, § 4900 et seq., 20 U.S.C. § 1681 et seq., 29 U.S.C. § 794, 42 U.S.C. § 2000d et seq., 42 U.S.C. § 12101 et seq., 34 C.F.R. § 106.9) The District prohibits discrimination, harassment, intimidation, bullying, and retaliation in all acts related to school activity or attendance. In addition to being the subject of a complaint, a pupil engaging in an act of bullying as defined by Education Code section 48900(r) may be suspended from school or recommended for expulsion.

The District's Uniform Complaint Procedure may be used in cases where individuals or a group have suffered discrimination, harassment, intimidation, or bullying. (Cal. Code Regs., tit. 5, §§ 4610, 4630, 4650, Ed. Code, §§ 234 et seq., 48900(r))

- (a) Any individual, public agency or organization has the right to file a written complaint alleging that he/she has personally suffered unlawful discrimination or that an individual or specific class of individuals has been subjected to unlawful discrimination.
(Cal. Code Regs., tit. 5, § 4630(b)(1))
- (b) Copies of the District's complaint procedures are available free of charge. (Cal. Code Regs., tit. 5, § 4622)
- (c) Complaints must usually be filed with the superintendent/designee of the District.
- (d) Discrimination complaints must be filed within six (6) months of the date the alleged discrimination occurred, or within six (6) months of the date the complainant first obtained knowledge of the facts of the alleged discrimination. Within that six (6) month period, complainant may file a written request with the district superintendent or designee for an extension of up to ninety (90) days following the six (6) month time period. Extensions will not be automatically granted, but may be granted for good cause. (Cal. Code Regs., tit. 5, § 4630(b))

Complaints Other Than Discrimination, Harassment, Intimidation, and Bullying:

The District has a written complaint procedure which may be used in cases where any individual, public agency or organization alleges violations of state or federal law, other than those relating to discrimination, harassment, intimidation, and bullying.

- (d) Written complaints may be made regarding:
 - i. Adult Education
 - ii. After School Education and Safety
 - iii. Agricultural Career Technical and/or Vocational Education

- iv. American Indian Education Centers and American Indian Early Childhood Education
- v. Bilingual Education
- vi. California Peer Assistance and Review Programs for Teachers
- vii. Consolidated Categorical Aid Programs
- viii. Migrant Child Education Programs
- ix. Every Student Succeeds Act (formerly No Child Left Behind)
- x. Career Technical and Technical Education and Technical Training Programs
- xi. Child Care and Development
- xii. Child Nutrition
- xiii. Compensatory Education
- xiv. Consolidated Categorical Aid
- xv. Economic Impact Aid
- xvi. Special Education
- xvii. "Williams Complaints"
- xviii. Pupil Fees
- xix. Instructional Minutes for Physical Education
- xx. Local Control Funding Formula (LCFF) and Local Control and Accountability Plan (LCAP)
- xxi. Pregnant and Parenting Pupils, including parental leave
- xxii. Student Parent Lactation Accommodations
- xxiii. Course Assignments already completed/without educational content
- xxiv. Physical Education Instructional Minutes
- xxv. Foster Youth, Homeless Youth, former Juvenile Court School Student Services, Migrant Youth, and Pupils of Military Families
- xxvi. Regional Occupational Centers and Programs
- xxvii. Continued Education Options for Former Juvenile Court School Students
- xxviii. School Safety Plans
- xxix. School Plans for Student Achievement (SPSA)
- xxx. Tobacco-Use Prevention Education
- xxxi. Health and Safety in a California State Preschool Program
- xxxii. Any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code section 64000
- xxxiii. Any other educational programs the Superintendent deems appropriate (Cal. Code Regs., tit. 5, §§ 4610(b), 4622, 4630, Ed. Code, §§ 222, 4845.7, 8200-8498, 8500-8538, 32289, 33315, 33380-33384, 35186, 41500-41513, 46015, 47606.5, 47607.3, 48853.5, 49013, 49069.5, 49490-49590, 49701, 51210, 51223, 51225.1, 51225.2, 51226-51226.1, 51228.1, 51228.2, 51228.3, 52060-52075, 52160-52178, 52300-52490, 52334.7, 52500-52616.24, 52800-52870, 54000-54029, 54400-54425, 54440-54445, 54460-54529, 56000-56867, 59000-59300, and 64001, 20 U.S.C. §§ 1400, 4600, 6601, 6801, 7101, 7201, 7301 et. seq., Health and Saf. Code, §§ 1596.792, 1596.7925, 104420)

Any individual, public agency or organization has the right to file a written complaint alleging that the District has violated a federal or state law or regulation governing any program listed above. (Cal. Code Regs., tit. 5, § 4630(b)(1))

Copies of the District's complaint procedures are available free of charge. (Cal. Code Regs., tit. 5, § 4622)

Complaints must usually be filed with the superintendent or designee of the District under the timelines established by District policy. (Cal. Code Regs., tit. 5, § 4630(b))

Within 60 days from the date of receipt of the complaint, the District's responsible officer or his/her designee shall conduct and complete an investigation of the complaint in accordance with local procedures adopted pursuant to California Code of Regulations, title 5, section 4621 and prepare a written decision. The time period may be extended by mutual written agreement of the parties.

- (e) Williams Complaints: Complaints, including anonymous complaints, may be made and addressed on a shortened timeline for the following areas: (Ed. Code, §§ 8235.5, 35186)
 - i. Insufficient textbooks and instructional materials;
 - ii. Emergency or urgent school facilities conditions that pose a threat to the health and safety of pupils;
 - iii. Noncompliance with the requirement of Education Code section 35292.6 to stock, at all times, at least half of the restrooms in the school with feminine hygiene products and to not charge students for the use of such products;
 - iv. Teacher vacancy or misassignment; or
 - v. Noncompliance of a license-exempt California State Preschool Program (CSPP) with health and safety standards specified in Health and Safety Code section 1596.7925 and related state regulations.

A complaint of noncompliance with Education Code section 35186 may be filed with the school principal or designee under the Uniform Complaint Procedures. A complainant not satisfied with the resolution of a Williams Complaint has the right to bring the complaint to the district governing board at a regularly scheduled hearing. In the case of a complaint regarding emergency or urgent school facilities conditions, a complainant has the right of appeal to the State Superintendent of Public Instruction.

- (f) Pupil Fees Complaints: A pupil enrolled in our district shall not be required to pay a pupil fee for participation in an educational activity, including curricular and extracurricular activities.

A pupil fee includes, but is not limited to, all of the following: a fee charged to a pupil as a condition for registering for school or classes, as a condition for participation in a class or an extracurricular activity, as a security deposit to obtain materials or equipment, or a purchase that a pupil is required to make to obtain materials or equipment for an educational activity.

A complaint of noncompliance with Education Code section 49010 et seq. may be filed with the school principal under the Uniform Complaint Procedures. A complaint shall be filed not later than one calendar year from the date the alleged violation occurred. A complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance.

- (g) Foster, homeless, former juvenile court pupils and pupils in military families: the District will post a standardized notice of the educational rights of pupils in foster care, pupils who are homeless, former juvenile court pupils now enrolled in a school district, and pupils in military families as specified in Education Code sections 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2. This notice shall include complaint process information, as applicable.

Complaints Made Directly to the State Superintendent:

Complaints may be filed directly with the State Superintendent of Public Instruction in the following cases:

- (h) Complaints alleging that the District failed to comply with the complaint procedures described herein, including failure or refusal to cooperate with the investigation.
- (i) Complaints regarding Child Development and Child Nutrition programs not administered by the District.
- (j) Complaints requesting anonymity, but only where the complainant also provides clear and convincing evidence that complainant would be in danger of retaliation if filing complaint at District level.
- (k) Complaints alleging that the District failed or refused to implement a final decision regarding a complaint originally filed with the District.
- (l) Complaints alleging that the District took no action within sixty (60) days regarding a complaint originally filed with the District.
- (m) Complaints alleging immediate and irreparable harm as a result of applying a district-wide policy in conflict with state or federal law and that complaining at the local level would be futile.
- (n) Complaints relating to Special Education, but only if:
 - i. District unlawfully refuses to provide a free appropriate public education to handicapped students; or
 - ii. District refuses to comply with due process procedures or fails to implement due process hearing order; or
 - iii. Children may be in immediate physical danger, or their health, safety or welfare is threatened; or
 - iv. A handicapped pupil is not receiving the services specified in his/her Individual Educational Program (IEP); or
 - v. The complaint involves a violation of federal law.
- (o) The District refuses to respond to the State Superintendent's request for information regarding a complaint originally filed with the District.
(Cal. Code Regs., tit. 5, §§ 4630, 4650)

Appeals:

- (p) Except for Williams Complaints, a complainant may appeal the District's decision to the California Department of Education. (Ed. Code, § 262.3(a), Cal. Code Regs., tit. 5, § 4632)
 - i. Appeals must be filed within fifteen (15) days of receiving the District decision.
 - ii. Appeals must be in writing.
 - iii. Appeals must specify the reason(s) for appealing the District decision, including whether the facts are incorrect and/or the law has been misapplied.
 - iv. Appeals must include a copy of the original complaint and a copy of the District decision.
 - v. Pupil fee complaints appealed to the California Department of Education will receive a written appeal decision within 60 days of the department's receipt of the appeal.
 - vi. If the school/District finds merit in a complaint, or the California Department of Education finds merit in an appeal, the school/District must provide a remedy to all affected pupils, parents, and guardians. For pupil fee complaints, this includes reasonable efforts by the school to ensure full reimbursement to all affected pupils, parents, and guardians, subject to procedures established through regulations adopted by the state board.

- (q) If a complaint is denied, in full or in part, by the Department of Education, the complainant may request reconsideration by the State Superintendent of Public Instruction. (Cal. Code Regs., tit. 5, § 4665)
 - i. Reconsideration must be requested within thirty-five (35) days of receiving the Department of Education report.
 - ii. The original decision denying the complaint will remain in effect and enforceable unless and until the State Superintendent of Public Instruction modifies that decision.

Civil Law Remedies:

In addition to the above-described complaint procedure, or upon completion of that procedure, complainants may have civil law remedies under state or federal discrimination, harassment, intimidation or bullying laws. These civil law remedies can include, but are not limited to, injunctions and restraining orders. These civil law remedies are granted by a court of law and may be used, in part, to prevent the District from acting in an unlawful manner. Delay in pursuing civil law remedies before a court of law may result in loss of rights to those remedies. Any questions regarding civil law remedies should be directed to an attorney. (Ed. Code, § 262.3(b), Cal. Code Regs., tit. 5, § 4622)

New Hope Elementary School District ensures that the person responsible for compliance and/or investigations is knowledgeable about the laws/programs that he/she is assigned to investigate.

Complaints alleging unlawful discrimination, harassment, intimidation, bullying, or related retaliation must be filed within six months from the date the alleged discrimination, harassment, intimidation, bullying, or retaliation occurred or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation, bullying, or retaliation.

Complaints will be investigated and a written decision or report will be sent to the complainant within 60 days from the receipt of the complaint. This 60 day time period may be extended by written agreement of the complainant. The Superintendent/Principal shall conduct and complete the investigation in accordance with 5 CCR §§ 4680-4687 and in accordance with local procedures adopted under 5 CCR § 4621.

Any complainant who is dissatisfied with the final written decision has a right to appeal the decision made by the District to the California Department of Education (CDE) by filing a written appeal within 15 days of receiving the decision. The complainant must specify the reason(s) for appealing the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal must include a copy of the locally filed complaint and the decision.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the complainant may:

1. Pursue available civil law remedies outside of the District complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Ed. Code, § 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Ed. on Code, § 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Additional information from the [U.S. Department of Education Office for Civil Rights](http://www.ed.gov/ocr), including its [Electronic Complaint Form](http://www.ed.gov/ocr). The Office for Civil rights can be contacted at 1-800-421-3481 or ocr@ed.gov.