

**Ferndale Unified School District
Board of Trustees**

Danella Barnes-Penman

Jerry Hansen

JoLynn Jorgensen

Cory Nunes

Corrie Pedrotti

**October 14, 2020
Regular School Board Meeting**

6:30 p.m. CLOSED SESSION

7:00 p.m. OPEN SESSION

Ferndale High School- Mabel Lowry Library
1231 Main Street, Ferndale, CA 95536

Join Zoom Meeting:

<https://us04web.zoom.us/j/73832146395?pwd=VGdxSjZpc2E4eG1wc053K1ZoTWw2QT09>

Join by phone:

Call 646-568-7788

Meeting ID: 738 3214 6395

Passcode: 1GfGFw

AGENDA

1.0 CALL TO ORDER

Notice: *Any writing, not exempt from public disclosure under Government Code Sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22, which is distributed to all or a majority of the members of the governing board by any person in connection with a matter subject to discussion or consideration at an open meeting of the Board is available for public inspection at Ferndale High School main office. (1231 Main Street, Ferndale, California).*

2.0 ADJUSTMENTS TO THE AGENDA

3.0 PUBLIC COMMENT ON CLOSED SESSION ITEMS

Members of the public may comment on closed session agenda items. Action taken in closed session will be reported out in open session, if required by law. Individuals will have up to three (3) minutes to address closed session agenda items. The Board shall limit the total time for public comment on each item of discussion to twenty (20) minutes.

4.0 ADJOURN TO CLOSED SESSION

4.1 Public Employment: Pursuant to Government Code Section 54957

FHS Varsity Boys Basketball Coach

FHS JV Girls Basketball Coach

FHS Varsity Girls Basketball Coach

FHS Basketball Cheer Coach

FHS Varsity Volleyball Coach

FHS Varsity Softball Coach

FHS Varsity Baseball Coach

5.0 REGULAR SESSION RECONVENED

5.1 Report Action taken in Closed Session, if required by law.

6.0 WELCOME/FLAG SALUTE

7.0 ANNOUNCEMENTS/REPORTS *(The Board is asked to receive information)*

- 7.1 Student Representative Reports
- 7.2 Certificated Representative Report
- 7.3 Classified Representative Report
- 7.4 Facilities Report
- 7.5 Board Member Reports/Announcements
- 7.6 School Improvement Grant (SIG) Report
- 7.7 2020-2021 Budget Report
- 7.8 Elementary School Principal Report
- 7.9 High School Principal/Superintendent Report

8.0 PUBLIC COMMENT ON OPEN SESSION ITEMS

Members of the public may comment on open agenda items or any other item pertaining to Board business. Action may be taken on items listed as such. Individuals will have up to three (3) minutes to address matters pertaining to Board Business. The Board shall limit the total time for public comment on each item of discussion to twenty (20) minutes.

9.0 CONSENT AGENDA *(The Board is asked to receive/approve)*

- 9.1 Approve Board Meeting Minutes Regular Meeting (September 9, 2020) and Special Meeting (September 30, 2020)
- 9.2 Approve Commercial Warrants (September 2020)
- 9.3 Approve FES/FHS Student Body Accounts/Revolving Cash Accounts and Enrollment Reports
- 9.4 Approve Personnel Activity Report

10.0 INFORMATION/ACTION *(The Board is asked to receive/discuss; however, the Board may decide to take action at its discretion)*

- 10.1 Receive/Discuss/Approve BP/E 3555 Nutrition Program Compliance
- 10.2 Receive/Discuss/Approve AR 4030 Nondiscrimination in Employment
- 10.3 Receive/Discuss/Approve BP 4119.11/4219.11/4319.11 Sexual Harassment
- 10.4 Receive/Discuss/Approve New AR 4119.12/4219.12/4319.12 Title IX Sexual Harassment
- 10.5 Receive/Discuss/Approve AR 5145.3 Nondiscrimination/Harassment
- 10.6 Receive/Discuss/Approve BP/AR 5145.7 Sexual Harassment
- 10.7 Receive/Discuss/Approve New AR 5145.71 Title IX Sexual Harassment Complaint Procedures

11.0 FUTURE AGENDA ITEMS

- 11.1 Athletic Schedules
- 11.2 2020-2021 First Interim Report
- 11.3 Annual Board Organization Meeting and Election of Officers – December 9, 2020
- 11.4 2021 Diploma Presentations

12.0 REVIEW OF CORRESPONDENCE TO THE BOARD

13.0 ADJOURNMENT

NOTICE: Individuals requiring disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting should contact the District Superintendent in writing three (3) days prior to the meeting at the following address: 1231 Main Street, Ferndale, California.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 9.1

DATE: October 14, 2020

SUBJECT:

Regular Board Meeting Minutes (September 9, 2020) and Special Board Meeting Minutes (September 30, 2020)

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Review, amend and approve.

PREVIOUS STAFF/BOARD ACTION:

This is a routine consent agenda item.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

See attached minutes and please communicate with Beth or Denise prior to the meeting for any corrections or clarifications.

FISCAL IMPLICATIONS:

None

CONTACT PERSON(S):

Denise Grinsell, Business Manager
Beth Anderson, Superintendent/Principal

Ferndale Unified School District

Board of Trustees

Danella Barnes-Penman

Jerry Hansen

JoLynn Jorgensen

Cory Nunes

Corrie Pedrotti

September 9, 2020

Regular School Board Meeting

6:30 p.m. CLOSED SESSION

7:00 p.m. OPEN SESSION

Ferndale High School- Mabel Lowry Library
1231 Main Street, Ferndale, CA 95536

Join Zoom Meeting

<https://us04web.zoom.us/j/78976396688?pwd=dHVCaEU1c1dWdWQwd2tGYjVTU0dMUT09>

Meeting ID: 789 7639 6688

Passcode: 9k1iiZ

Minutes

Present: Jerry Hansen, JoLynn Jorgensen, Cory Nunes, Corrie Pedrotti

Also Present: Beth Anderson, Superintendent/ Principal, Jeff Landry, Principal, Denise Grinsell

Absent: Danella Barnes-Penman

1.0 CALL TO ORDER

President Jorgensen called the meeting to order at 6:30 p.m.

2.0 ADJUSTMENTS TO THE AGENDA

Supt. Anderson added 11.4 – Approve 8th Grade Trip Fund Raiser

3.0 PUBLIC COMMENT ON CLOSED SESSION ITEMS

None

4.0 ADJOURN TO CLOSED SESSION

The board adjourned to closed session at 6:32 p.m.

4.1 Public Employment: Pursuant to Government Code Section 54957

Classified Employment:

FES Aides

5.0 REGULAR SESSION RECONVENED

Regular session was reconvened at 7:00 p.m.

5.1 Report Action taken in Closed Session, if required by law.

President Jorgensen announced that the board accepted the recommendation of the administration to hire: Jessica Grant and Sharon Richardson as FES Aides.

6.0 FLAG SALUTE

7.0 ANNOUNCEMENTS/REPORTS - None

7.1 Student Representative Reports

None

7.2 Certificated Representative Report

None

7.3 Classified Representative Report

None

7.4 Facilities Report

Supt. Anderson reported that there was nothing to report and thanked the maintenance staff for getting the facilities ready. She also thanked Humboldt County Fair Assn. for the loan of picnic tables. She went on to thank Ingrid Penman and Danella Barnes-Penman for their help with power washing.

7.5 Board Member Reports/Announcements

None

7.6 School Improvement Grant (SIG) Report

Principal Landry said the next SIG meeting is on 9/22. They have set up Professional Development for the year and are revisiting NWEA, adding three trainings to analyze data to target intervention. They have two newer programs for math with con academy for grades 3-8 and reading fluency for k-5.

7.7 Learning Continuity and Assessment Plan (LCAP)

Supt. Anderson explained that the previous LCAP is being replaced by the new Learning Continuity and Assessment Plan. She has had several input sessions with parent groups and staff. This plan will include distance learning and also plan for in person learning.

7.8 2020-2021 Budget Report

Denise Grinsell explained how the district is utilizing funds for COVID. She also added that with the Unaudited Actuals, the district has more carryover than anticipated as the district did not spend as much with no “in person” learning in the spring.

7.9 Elementary School Principal Report

Principal Landry shared that Ferndale Elementary has 240 students in person with less than 70 distance learners. He feels good with the plan they have in place. He gave a shout out to the aides as they are six short from last year and everyone has been extremely flexible. The teachers have inspired him, showing how highly qualified they are doing two jobs. His students are doing good with wearing masks and distancing. He praised his incredible support staff and office staff.

7.10 High School Principal/Superintendent Report

Supt. Anderson said the high school has 130 students on campus with 20 distance learners. She is super proud of the students with temperature checks every morning, masks are worn correctly and sanitizing. It is great to have everyone back. They are working on schedule changes. Distance learners are rocking and rolling, teachers are teaching in the morning and zooming with distance learners in the afternoon. On October 2, HDNL will present their proposed 3 season of sports to NCS, hoping for a December 14 start date. FHS will have a virtual back to school night soon. She has had many HCOE superintendent meetings focusing on LCAP and COVID.

8.0 PUBLIC COMMENT ON OPEN SESSION ITEMS

None

9.0 CONSENT AGENDA *(The Board is asked to receive/approve.)*

- 9.1 Approve Board Meeting Minutes - Regular Meeting (August 12, 2020), Special Meeting (August 26, 2020)
- 9.2 Approve Commercial Warrants (August 2020)
- 9.3 Approve FES/FHS Student Body Accounts/Revolving Cash Accounts and Enrollment Reports
- 9.4 Approve Personnel Activity Report

A motion was made by Jerry Hansen and seconded by Cory Nunes to approve the consent agenda. Roll call vote summary: ayes 4-0 noes, Barnes-Penman absent.

10.0 PUBLIC HEARING:

- 10.1 Sufficiency of Textbooks and Instructional Materials (Ed Code 60119)
President Jorgensen opened the public hearing for Sufficiency of Textbooks and Instructional Materials (Ed Code 60119) at 7:16 p.m. With no comment the hearing was closed.
- 10.2 Learning Continuity Plan (LCP replaces LCAP) for 2020-2021
- 10.3 President Jorgensen opened the public hearing for Learning Continuity Plan (LCP replaces LCAP) for 2020-2021 at 7:17 p.m. With no comment the hearing was closed.

11.0 ACTION ITEMS *(The Board is asked to adopt/approve.)*

11.1 Approve Certification of Unaudited Actual Financial Report for 2019-2020
Denise Grinsell reported that carryover was better than anticipated at Budget Adoption.
A motion was made by Corrie Pedrotti and seconded by Cory Nunes to approve a positive certification of Unaudited Actual Financial Report for 2019-2020. Roll call vote summary: ayes 4-0 noes, Barnes-Penman absent.

11.2 Adopt Resolution #21-01 for Current and Prior year Gann Limit Calculations
A motion was made by Jerry Hansen and seconded by Cory Nunes to adopt Resolution #21-01 for Current and Prior year Gann Limit Calculations. Roll call vote summary: ayes 4-0 noes, Barnes-Penman absent.

11.3 Adopt Resolution #21-02 on Sufficiency of Textbooks and Instructional Materials
A motion was made by Cory Nunes and seconded by JoLynn Jorgensen to adopt Resolution #21-02 on Sufficiency of Textbooks and Instructional Materials. Roll call vote summary: ayes 4-0 noes, Barnes-Penman absent.

11.4 Approve 8th Grade Trip Fundraiser.
Supt. Anderson explained that since there can be no carnival this year, they are proposing a drive through dinner with virtual silent auction on October 9.
A motion was made by Jerry Hansen and seconded by Cory Nunes to approve 8th Grade Trip Fundraiser. Roll call vote summary: ayes 4-0 noes, Barnes-Penman absent.

12.0 FUTURE AGENDA ITEMS

- 12.1 BP/AR Policy Updates
- 12.2 Athletic Schedules Approval

13.0 REVIEW OF CORRESPONDENCE TO THE BOARD

Supt. Anderson reminded the board there will be a special board meeting to approve the LCP on 9/30.

14.0 ADJOURNMENT

President Jorgensen adjourned the meeting at 7:25 p.m.

**Ferndale Unified School District
Board of Trustees**

Danella Barnes-Penman

Jerry Hansen

JoLynn Jorgensen

Cory Nunes

Corrie Pedrotti

**September 30, 2020
Special School Board Meeting**

**6:45 p.m. CLOSED SESSION
7:00 p.m. OPEN SESSION**

Ferndale High School- Mabel Lowry Library
1231 Main Street, Ferndale, CA 95536

Join Zoom Meeting

<https://us04web.zoom.us/j/72165595898?pwd=RTJ5aS9iY0xudDJjMFRWTEJPajMxdz09>

Meeting ID: 721 6559 5898

Passcode: 2K1psF

Minutes

Present: Danella Barnes-Penman, Jerry Hansen, JoLynn Jorgensen, Cory Nunes, Corrie Pedrotti

Also Present: Beth Anderson, Superintendent/ Principal

1.0 CALL TO ORDER

President Jorgensen called the meeting to order at 6:46 p.m.

2.0 ADJUSTMENTS TO THE AGENDA

None

3.0 PUBLIC COMMENT ON CLOSED SESSION ITEMS

None

4.0 ADJOURN TO CLOSED SESSION

4.1 Public Employment: Pursuant to Government Code Section 54957

Classified Employment:

1. FES Aides

Certificated Employment

2. FES Temporary 5th Grade Teacher, .75 FTE

5.0 REGULAR SESSION RECONVENED

Regular session was reconvened at 7:00 p.m.

5.1 Report Action taken in Closed Session, if required by law.

President Jorgensen announced that the board accepted the recommendation of the administration to hire: Mary Pidgeon - FES Temporary 5th Grade Teacher, .75 FTE

6.0 FLAG SALUTE

7.0 PUBLIC COMMENT ON OPEN SESSION ITEMS

None

8.0 ACTION ITEMS *(The Board is asked to adopt/approve.)*

8.1 Approve Learning Continuity and Attendance Plan 2020-2021

8.2 A motion was made by Jerry Hansen and seconded by Cory Nunes to approve Learning Continuity and Attendance Plan 2020-2021. Roll call vote summary: ayes 5-0 noes.

9.0 ADJOURNMENT

The meeting was adjourned at 7:04 p.m.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 9.2

DATE: October 14, 2020

SUBJECT:

Commercial Warrants Summary (September 2020)

DEPARTMENT/PROGRAM:

Administration/Business

ACTION REQUESTED:

Approve commercial warrant summary

PREVIOUS STAFF/BOARD ACTION:

This is a routine consent agenda item.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Please call Denise about questions regarding commercial warrants prior to the meeting.

FISCAL IMPLICATIONS:

Funding is included in the 2020-2021 adopted budget.

CONTACT PERSON(S):

Denise Grinsell, Business Manager
Beth Anderson, Superintendent/Principal

ACCOUNTS PAYABLE - BOARD PAYMENT REPORT

Report Cover Sheet

General Settings

Report Name	ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
Printed	10/5/2020 2:13:31 PM
District	45
Logon	dgrinsell
Fiscal Year	2021

Filters

Transaction Type:	ALL
Board Meeting Date:	10/14/2020
From Transmittal Number:	21000007
To Transmittal Number:	21000010
Audit Type:	ALL
Fiscal Year:	2021
Sort By:	Vendor Name
Print Description:	Board Description
Include Vendor Address:	NO
Page Break By Transmittal:	NO
Include Voided Transmittal:	NO

HUMBOLDT COUNTY OFFICE OF EDUCATION
ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000007-0 AUDIT

Reference	Vendor	Description	Amount
PV210074-001	ALMQUIST LUMBER CO	AG MECH SUPPLIES	1,097.92
		Total Payment Amount	1,097.92
PO210027-001	AMERICAN SAFETY COUNCIL INC	Driver's Ed curriculum	414.40
		Total Payment Amount	414.40
PV210075-001	ANDERSON, BETH	COVID SUPPLIES	45.48
		Total Payment Amount	45.48
PV210076-001	ASAP LOCK & KEY	KEYS	2.71
		Total Payment Amount	2.71
PV210077-001	CAL-ORE GREASE TRAP SERVICES	GREASE TRAP SERVICE SEPT	145.00
		Total Payment Amount	145.00
PV210078-001	CASH & CARRY	CAF FOOD/SUPPLIES	858.98
		Total Payment Amount	858.98
PV210079-001	CDE	CDE COMMODITIES	85.50
		Total Payment Amount	85.50
PO210013-001	CDW.G	chrome books/charge cart CTE	2,040.84
PO210013-002	CDW.G	chrome books/charge cart CTE	900.00
PO210020-001	CDW.G	charging cart - new class	961.64
		Total Payment Amount	3,902.48
PO210026-001	CENGAGE LEARNING INC	additional Health curriculum	3,649.85
		Total Payment Amount	3,649.85
PV210089-001	CRYSTAL CREAMERY	CAF MILK	527.47
		Total Payment Amount	527.47
PV210080-001	DC MECHANICAL	FES ICE MACHINE REPAIRS	190.00
		Total Payment Amount	190.00
PV210081-001	DEPARTMENT OF JUSTICE	LIVE SCANS	32.00
		Total Payment Amount	32.00
PV210082-001	ECOLAB	SEPT SERVICES	339.47

HUMBOLDT COUNTY OFFICE OF EDUCATION
ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000007-0 AUDIT

Reference	Vendor	Description	Total Payment Amount
PV210083-001	FERNDALE TECH	WOOD SHOP	339.47
			355.16
			Total Payment Amount
			355.16
PV210084-001	FORTUNA ACE HARDWARE	SUPPLIES	75.12
			75.12
			Total Payment Amount
			75.12
PV210085-001	FRANZ FAMILY BAKERIES	CAF BREAD	292.32
			292.32
			Total Payment Amount
			292.32
PV210086-001	FRONTIER	PHONE	3,284.50
			3,284.50
			Total Payment Amount
			3,284.50
PV210087-001	HUMBOLDT FASTENERS	AG MECH TOOLS STOLEN	4,423.98
			4,423.98
			Total Payment Amount
			4,423.98
PV210088-001	HUMMEL TIRE & WHEEL	NEW TIRES BUS #7	1,137.34
			1,137.34
			Total Payment Amount
			1,137.34
PO210001-002	MCGRAW-HILL	FES Math Curriculum	911.68
			911.68
			Total Payment Amount
			911.68
PV210090-001	MENDES SUPPLY CO.	CUSTODIAL/COVID SUPPLIES	4,197.18
			4,197.18
			Total Payment Amount
			4,197.18
PV210091-001	NILSEN CO	SUPPLIES	563.23
			563.23
			Total Payment Amount
			563.23
PV210092-001	P G & E	ELECTRICITY	3,468.47
			3,468.47
			Total Payment Amount
			3,468.47
PV210093-001	PITNEY BOWES	FHS POSTAGE	473.61
			473.61
			Total Payment Amount
			473.61
PV210094-001	PITNEY BOWES	FES LEASE	94.41
			94.41
			Total Payment Amount
			94.41
PV210095-001	PRO PACIFIC FRESH	FES CAF	2,041.39

HUMBOLDT COUNTY OFFICE OF EDUCATION
ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000007-0 AUDIT

Reference	Vendor	Description	Amount
		Total Payment Amount	2,041.39
PV210096-001	RECOLOGY EEL RIVER	GARBAGE	1,657.21
		Total Payment Amount	1,657.21
PV210097-001	RESTIF CLEANING SERVICE	AUG SERVICES	5,330.00
		Total Payment Amount	5,330.00
PO210022-001	SCHOOL SPECIALTY SUPPLY INC	butcher paper	297.72
		Total Payment Amount	297.72
PO210004-001	SCOTT FORESMAN & CO	Copy of FES GR 4/5 Social Scie	1,408.63
		Total Payment Amount	1,408.63
PV210100-001	SEQUOIA FLORAL	FLORAL SUPPLIES	86.09
		Total Payment Amount	86.09
PV210099-001	SI&A	20-21 SERVICES	4,700.00
		Total Payment Amount	4,700.00
PO210015-008	STAPLES ADVANTAGE	Teacher requested supplies	4.59
PO210015-009	STAPLES ADVANTAGE	Teacher requested supplies	3.86
PO210021-001	STAPLES ADVANTAGE	add supplies	149.77
		Total Payment Amount	158.22
PV210101-001	STAPLES	SUPPLIES	215.49
		Total Payment Amount	215.49
PV210102-001	SYSCO	FES CAF	3,014.17
		Total Payment Amount	3,014.17
PV210103-001	U.S. BANK	COVID/CTE SUPPLIES	7,820.18
		Total Payment Amount	7,820.18
PV210104-001	VALLEY LUMBER & MILLWORK	MATERIALS	498.88
		Total Payment Amount	498.88
PV210105-001	VALLEY PACIFIC PETROLEUM INC	FUEL	1,288.95
		Total Payment Amount	1,288.95

HUMBOLDT COUNTY OFFICE OF EDUCATION
 ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: Reference	21000007-0 AUDIT Vendor	Description	Amount
PV210106-001	WEX BANK	FUEL	75.00
		Total Payment Amount	75.00
		Transmittal Total	59,160.19
		Fund Summary:	
		Fund 01	52,195.36
		Fund 13	6,964.83
Transmittal Number:	21000007-7 AUDIT		
PV210073-001	AIRGAS USA LLC	AG MECH SUPPLIES/MATERIALS	1,488.20
		Total Payment Amount	1,488.20
PV210098-001	REVOLVING CASH FUND	EMPLOYEE REIMBS	2,386.69
		Total Payment Amount	2,386.69
		Transmittal Total	3,874.89
		Fund Summary:	
		Fund 01	3,874.89
Transmittal Number:	21000008-0 AUDIT		
PV210107-001	AIRGAS USA LLC	AG MECH SUPPLIES	1,084.90
		Total Payment Amount	1,084.90
PV210108-001	AMBROSINI & SONS ELECTRIC INC.	TRAINING ROOM LIGHTING	639.35
		Total Payment Amount	639.35
PV210109-001	ASAP LOCK & KEY	KEYS	30.38
		Total Payment Amount	30.38
PV210110-001	CASH & CARRY	FHS CAF	450.03
		Total Payment Amount	450.03
PO210030-001	CDW.G	projectors	1,135.69
		Total Payment Amount	1,135.69
PV210111-001	CRYSTAL CREAMERY	FES CAF	316.10
		Total Payment Amount	316.10
PV210112-001	DEL ORO WATER COMPANY	WATER	802.83

HUMBOLDT COUNTY OFFICE OF EDUCATION
 ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000008-0 AUDIT

Reference	Vendor	Description	Total Payment Amount	Amount
PV210113-001	FRANZ FAMILY BAKERIES	BREAD	802.83	140.76
			Total Payment Amount	140.76
PV210114-001	FRONTIER	INTERNET	9,728.54	9,728.54
			Total Payment Amount	9,728.54
PV210115-001	GW PETERSEN PLUMBING	REPAIRS SHOP/ICE MACHINE	490.00	490.00
			Total Payment Amount	490.00
PO210028-001	HENRY SCHEIN	Health Supplies	690.90	49.95
PO210028-002	HENRY SCHEIN	Health Supplies	49.95	259.72
PO210028-003	HENRY SCHEIN	Health Supplies	259.72	108.95
PO210028-004	HENRY SCHEIN	Health Supplies	108.95	1,109.52
			Total Payment Amount	1,109.52
PO210002-002	HOUGHTON MIFFLIN HARCOURT	FES Science	702.59	702.59
			Total Payment Amount	702.59
PV210116-001	MENDES SUPPLY CO.	COVID SUPPLIES	6,631.87	6,631.87
			Total Payment Amount	6,631.87
PO210031-001	NORTHSTAR AV LLC	PROJECTOR BULBS	545.22	545.22
			Total Payment Amount	545.22
PV210117-001	PITNEY BOWES	FES POSTAGE	1,101.32	1,101.32
			Total Payment Amount	1,101.32
PV210118-001	PRO PACIFIC FRESH	FES CAF	849.35	849.35
			Total Payment Amount	849.35
PV210119-001	REVOLVING CASH FUND	SPED PD/SUPPLIES	173.30	173.30
			Total Payment Amount	173.30
PV210120-001	SCHOOL DATEBOOKS	PLANNERS	1,129.35	1,129.35
			Total Payment Amount	1,129.35
PO210023-001	SCHOOL SPECIALTY SUPPLY INC	admit slips	107.75	107.75

HUMBOLDT COUNTY OFFICE OF EDUCATION
ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000008-0 AUDIT

Reference	Vendor	Description	Amount
		Total Payment Amount	107.75
PV210121-001	SEQUOIA FLORAL	FLORAL SUPPLIES	418.76
		Total Payment Amount	418.76
PV210122-001	SIX RIVERS PORTABLE TOILETS	BUS BARN	90.78
		Total Payment Amount	90.78
PV210123-001	SYSCO	FES CAF	896.01
		Total Payment Amount	896.01
PV210124-001	TOTAL COMPENSATION SYSTEMS INC	GASB75 VALUATION 2ND INSTALLME	1,260.00
		Total Payment Amount	1,260.00
		Transmittal Total	29,834.40
		Fund Summary:	
		Fund 01	27,182.15
		Fund 13	2,652.25

Transmittal Number: 21000009-0 AUDIT

PV210125-001	U.S. BANK	VISA PAYMENT	9,911.46
		Total Payment Amount	9,911.46
		Transmittal Total	9,911.46
		Fund Summary:	
		Fund 01	9,911.46

Transmittal Number: 21000010-0 AUDIT

PV210126-001	ADVANCED SECURITY SYSTEMS	FHS MONITORING 10/1-12/31/20	76.50
		Total Payment Amount	76.50
PV210127-001	AIRGAS USA LLC	AG MECH SUPPLIES	384.00
		Total Payment Amount	384.00
PV210128-001	CASH & CARRY	FHS CAF	970.04
		Total Payment Amount	970.04
PO210017-001	CDW.G	FES Primary Charge Carts	8,323.53
PO210018-001	CDW.G	FES Middle Grades charging car	1,923.27

HUMBOLDT COUNTY OFFICE OF EDUCATION
ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000010-0 AUDIT

Reference	Vendor	Description	Total Payment Amount
			10,246.80
PV210129-001	CLENDENEN'S CIDER WORKS	APPLES FOR CAF	114.00
		Total Payment Amount	114.00
PO210033-001	CREATIVE MATHEMATICS	math manipulatives	710.65
		Total Payment Amount	710.65
PV210130-001	CRYSTAL CREAMERY	CAF MILK	193.10
		Total Payment Amount	193.10
PV210131-001	ECOLAB	FES ANTS	175.00
		Total Payment Amount	175.00
PV210132-001	EMPLOYMENT DEVELOPMENT DEPT	Q3 SUI	186.49
		Total Payment Amount	186.49
PV210133-001	FERNDALE MEAT COMPANY	BACON FHS CAF	33.29
		Total Payment Amount	33.29
PV210134-001	FORTUNA ACE HARDWARE	CLOCK	20.81
		Total Payment Amount	20.81
PV210135-001	FRANZ FAMILY BAKERIES	BREAD	55.08
		Total Payment Amount	55.08
PV210136-001	FRONTIER	INTERNT FES	5,325.39
		Total Payment Amount	5,325.39
PO210029-001	IXL LEARNING	IXL for Jinne Calvi	138.00
		Total Payment Amount	138.00
PV210137-001	NILSEN CO	SUPPLIES	472.47
		Total Payment Amount	472.47
CM210001-001	PACIFIC PAPER COMPANY	OVERPAYMENT	(85.00)
PV210138-001	PACIFIC PAPER COMPANY	NEW BARRIER FOR FES OFFICE	206.15
		Total Payment Amount	121.15

HUMBOLDT COUNTY OFFICE OF EDUCATION
ACCOUNTS PAYABLE - BOARD PAYMENT REPORT
 Board of Trustees Meeting 10/14/2020

45 Ferndale Unified

Fiscal Year: 2021

Transmittal Number: 21000010-0 AUDIT

Reference	Vendor	Description	Amount
PV210139-001	REVOLVING CASH FUND	PD/SUPPLIES/LIVESCAN	956.71
		Total Payment Amount	956.71
PV210140-001	SYSCO	FES CAF	1,069.93
		Total Payment Amount	1,069.93
PV210141-001	VALLEY LUMBER & MILLWORK	SUPPLIES/MATERIALS	428.01
		Total Payment Amount	428.01
PV210142-001	VALLEY PACIFIC PETROLEUM INC	GAS	395.98
		Total Payment Amount	395.98
		Transmittal Total	22,073.40
		Fund Summary:	
		Fund 01	19,637.96
		Fund 13	2,435.44
		Payment Count: 82	
		Transmittal Count: 5	
		Grand Total:	124,854.34

The above Payable transactions have been issued in accordance with the District's policies and procedures. It is recommended that the Board of Trustees approve them.

 Authorized Agent

 Board Approval

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 9.3

DATE: October 14, 2020

SUBJECT:

FES/FHS Revolving Cash Accounts and Enrollment Reports

DEPARTMENT/PROGRAM:

Business/Administration

ACTION REQUESTED:

Approve FES/FHS Student Body/Revolving Cash Accounts and Enrollment Reports

PREVIOUS STAFF/BOARD ACTION:

School Site staff has prepared the attached FES/FHS Student Body/Revolving Cash Accounts and Enrollment Reports for Board review.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

The Board reviews Student Body Accounts/Revolving Cash Accounts and Enrollment Reports on a routine basis.

FISCAL IMPLICATIONS:

None

CONTACT PERSON(S):

Denise Grinsell, Business Manager
Beth Anderson, Superintendent

**FERNDALE UNIFIED SCHOOL DISTRICT ENROLLMENT
FERNDALE ELEMENTARY SCHOOL –300
October 7, 2020**

Mrs. Soli (TK/K) (19)
4 distance
15 in person

Mrs. Brazil (K) (18)
3 distance
15 in person

Mrs. Collenberg (1st) (17)
1 distance
16 in person

Mrs. Griffith (1st) (16)
2 distance
14 in person

Mrs. Currier (2nd) (18)
2 distance
16 in person

Mrs. Townsend (2nd/3rd) (21)
2 distance = 1 2nd & 1 3rd
19 in person = 10 2nd & 9 3rd

Mrs. Rodriguez (3rd) (21)
3 distance
18 in person

Mr. Duggan (4th) (19)
3 distance
16 in person

Mrs. Fisk-Becker (4th) (18)
3 distance
15 in person

Mrs. Busher (5th) (24)
4 distance
20 in person

Mrs. Pidgeon (5th) (8)
8 in person

Mrs. Calvi (6th) (20)
20 in person

Mrs. Busick (6th) (19)
4 distance
15 in person

Jr. High (25 7th & 37 8th)
Mr. Rigney, Mr. Totten, Mr. Griffith, Ms. Cueva

Block 1 (7th) (16)
1 distance
15 in person

Block 2 (7th) (9)
9 in person

Block 1 (8th) (19)
5 distance
14 in person

Block 2 (8th) (18)
3 distance
15 in person

**FERNDALE UNIFIED SCHOOL DISTRICT
ENROLLMENT
FERNDALE HIGH SCHOOL – 154**

October 14, 2020

<u>GRADE</u>	<u>ENROLLMENT</u>
9	39
10	31
11	36
12	48

TOTAL: 154

137 - In Person students

17 - Distance Learning students



P.O. Box 1800
 Saint Paul, Minnesota 55101-0800
 3806 TRN S Y ST01

Business Statement

Account Number:
 1 575 1366 8200
 Statement Period:
 Aug 3, 2020
 through
 Aug 31, 2020

000084845 01 AB 0.419 000638564213749 P Y
 FERNDALE UNIFIED SCHOOL DIST
 1231 MAIN ST
 FERNDALE CA 95536-9416



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NEWS FOR YOU

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The Real-Time Payments (RTP®) network allows fund transfers directly between financial institutions with 24/7/365 payment processing. In April 2019, all U.S. Bank routing numbers became eligible to receive incoming real-time payments. Since that time, the fees for these incoming payments were waived. However, effective Aug. 1, 2020, U.S. Bank will begin charging \$1.00 for each of these incoming payments. Fees will be reflected on your statement beginning in early September. If you no longer wish to receive incoming real-time payments, contact your Personal Banker, Treasury Management consultant or Commercial Customer Service team.

As the RTP® network continues to grow, it may be a good time to explore how it's 24/7, real-time payment capability could help your business. If you haven't tried RTP and want to discuss adding this capability to your U.S. Bank services, contact your Personal Banker, Treasury Management Consultant or Commercial Customer Service team.

NON PROFIT CHECKING

Member FDIC

U.S. Bank National Association

Account Number 1-575-1366-8200

Account Summary

	# Items	\$		\$
Beginning Balance on Aug 3			2,942.98	Interest Paid this Year
Other Deposits	1		0.02	Number of Days in Statement Period
Checks Paid	6		732.53-	
Ending Balance on Aug 31, 2020			\$ 2,210.47	

Other Deposits

Date	Description of Transaction	Ref Number	Amount
Aug 31	Interest Paid	3100005829	\$ 0.02
Total Other Deposits			\$ 0.02

Checks Presented Conventionally

Check	Date	Ref Number	Amount	Check	Date	Ref Number	Amount
3049	Aug 4	8357293326	30.00	3052	Aug 28	9254801577	32.27
3050	Aug 13	8954627549	90.00	3053	Aug 24	8055778531	90.00
3	Aug 20	8952701123	464.12	3054	Aug 27	8953571040	26.14
Conventional Checks Paid (6)							\$ 732.53-

Balance Summary

Date	Ending Balance	Date	Ending Balance	Date	Ending Balance
Aug 4	2,912.98	Aug 20	2,358.86	Aug 27	2,242.72
Aug 13	2,822.98	Aug 24	2,268.86	Aug 28	2,210.45



FERNDALE UNIFIED SCHOOL DIST
 1231 MAIN ST
 FERNDALE CA 95536-9416

Business Statement

Account Number:
 1 575 1366 8200
 Statement Period:
 Aug 3, 2020
 through
 Aug 31, 2020



NON PROFIT CHECKING

(CONTINUED)

U.S. Bank National Association

Account Number 1-575-1366-8200

Balance Summary (continued)

<i>Date</i>	<i>Ending Balance</i>
Aug 31	2,210.47

Balances only appear for days reflecting change.

ANALYSIS SERVICE CHARGE DETAIL

Account Analysis Activity for: July 2020

Account Number:	1-575-1366-8200	\$	0.00
Analysis Service Charge assessed to	1-575-1366-8200	\$	<u>0.00</u>

Service Activity Detail for Account Number 1-575-1366-8200

<i>Service</i>	<i>Volume</i>	<i>Avg Unit Price</i>	<i>Total Charge</i>
Depository Services			
Combined Transactions/Items	29		No Charge
Subtotal: Depository Services			<u>0.00</u>
Fee Based Service Charges for Account Number 1-575-1366-8200			\$ <u>0.00</u>

12:08 PM

09/11/20

Ferndale Unified School District
Reconciliation Summary
FUSD Revolving Cash, Period Ending 08/31/2020

	<u>Aug 31, 20</u>
Beginning Balance	2,942.98
Cleared Transactions	
Checks and Payments - 6 items	-732.53
Deposits and Credits - 2 items	0.02
Total Cleared Transactions	<u>-732.51</u>
Cleared Balance	<u>2,210.47</u>
Uncleared Transactions	
Checks and Payments - 4 items	-559.38
Total Uncleared Transactions	<u>-559.38</u>
Register Balance as of 08/31/2020	<u>1,651.09</u>
New Transactions	
Checks and Payments - 10 items	-1,490.74
Deposits and Credits - 2 items	1,351.91
Total New Transactions	<u>-138.83</u>
Ending Balance	<u>1,512.26</u>

Ferndale Unified School District
Reconciliation Detail
FUSD Revolving Cash, Period Ending 08/31/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						2,942.98
Cleared Transactions						
Checks and Payments - 6 items						
Check	8/4/2020	3049	Brenda Hinton	X	-30.00	-30.00
Check	8/12/2020	3050	Brenda Hinton	X	-90.00	-120.00
Check	8/13/2020	3051	Alexa Alexandre	X	-464.12	-584.12
Check	8/14/2020	3052	Leanne McCulloch	X	-32.27	-616.39
Check	8/21/2020	3053	Keith Stringer	X	-90.00	-706.39
Check	8/26/2020	3054	Keith Stringer	X	-26.14	-732.53
Total Checks and Payments					-732.53	-732.53
Deposits and Credits - 2 items						
Check	8/27/2020	3057	Keith Stringer	X	0.00	0.00
Deposit	8/31/2020			X	0.02	0.02
Total Deposits and Credits					0.02	0.02
Total Cleared Transactions					-732.51	-732.51
Cleared Balance					-732.51	2,210.47
Uncleared Transactions						
Checks and Payments - 4 items						
Check	6/3/2020	3047	Marissa Hardwick		-30.00	-30.00
Check	8/27/2020	3056	Alexa Alexandre		-280.29	-310.29
Check	8/27/2020	3058	Jennie Titus		-126.01	-436.30
Check	8/27/2020	3055	Theresa Noga		-123.08	-559.38
Total Checks and Payments					-559.38	-559.38
Total Uncleared Transactions					-559.38	-559.38
Register Balance as of 08/31/2020					-1,291.89	1,651.09
New Transactions						
Checks and Payments - 10 items						
Check	9/1/2020	3063	Alexa Alexandre		-819.01	-819.01
Check	9/1/2020	3059	Theresa Noga		-216.98	-1,035.99
Check	9/1/2020	3062	Denise Grinsell		-94.22	-1,130.21
Check	9/1/2020	3061	Jinne Calvi		-35.00	-1,165.21
Check	9/1/2020	3060	Jeremy Griffith		-24.77	-1,189.98
Check	9/2/2020	3064	Sharon Richardson		-35.00	-1,224.98
Check	9/3/2020	3065	Jennie Titus		-21.10	-1,246.08
Check	9/10/2020	3068	Kim Wilson		-178.64	-1,424.72
Check	9/10/2020	3067	Erin Banke		-40.00	-1,464.72
Check	9/10/2020	3066	Henry Chiles		-26.02	-1,490.74
Total Checks and Payments					-1,490.74	-1,490.74
Deposits and Credits - 2 items						
Deposit	9/1/2020				706.39	706.39
Deposit	9/11/2020				645.52	1,351.91
Total Deposits and Credits					1,351.91	1,351.91
Total New Transactions					-138.83	-138.83
Ending Balance					-1,430.72	1,512.26



P.O. Box 1800
Saint Paul, Minnesota 55101-0800

3806 TRN S Y ST01

Business Statement

Account Number:
1 575 1366 8200
Statement Period:
Sep 1, 2020
through
Sep 30, 2020

Page 1 of 2



000083770 01 AB 0.419 000638593255046 P Y
FERNDAL Unified School Dist
1231 Main St
Ferndale CA 95536-9416



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INFORMATION YOU SHOULD KNOW

Effective November 9, 2020 the "Your Deposit Account Agreement" booklet will include several updates and may affect your rights.

The main updates to note in the revised "Your Deposit Account Agreement" booklet sections and sub sections, include:

- Throughout the document, references to the Federal Regulation D (governing savings and/or money market withdrawal limitations) have been removed, as they are no longer applicable.
- In section "Withdrawal Rights, Ownership of Account, and Beneficiary Designation", sub section "Joint Account - With Survivorship", clarification on ownership type.
- In the "Dormant Accounts and Escheat" and "Time Deposit" sections, clarification on the state permitted process and cost structure for escheatment.
- Update to section "Types of Transactions", sub section "Account Access at Automated Teller Machines" regarding: You may access your Home Equity Line of Credit or Personal Line of Credit for balance inquiries and making a payment to the respective line of credit at the ATM. Customers with a Debit or ATM card that have accessed a Home Equity Line of Credit or a Personal Line of Credit through the expanded card access feature, cash withdrawals/advances and transferring from the Home Equity Line of Credit or Personal Line of Credit is no longer allowed.

Starting November 9th, you may pick up a copy at your local branch, view on usbank.com, or call 800.USBANKS (872.2657) to request a copy. If you have any questions, our bankers are available to help at your local branch. You can also call us at U.S. Bank 24-Hour Banking at 800.USBANKS (872.2657). We accept relay calls.

NON PROFIT CHECKING

U.S. Bank National Association

Account Summary

	# Items	\$	
Beginning Balance on Sep 1			2,210.47
Customer Deposits	3		3,738.60
Other Deposits	1		0.01
Checks Paid	20		3,307.35-
Ending Balance on Sep 30, 2020		\$	2,641.73

Interest Paid this Year	\$	0.67
Number of Days in Statement Period		30

Member FDIC

Account Number 1-575-1366-8200

Customer Deposits

Number	Date	Ref Number	Amount
	Sep 1	8355598578	706.39
	Sep 17	8953590055	645.52

Number	Date	Ref Number	Amount
	Sep 25	9252998127	2,386.69



FERNDALE UNIFIED SCHOOL DIST
1231 MAIN ST
FERNDALE CA 95536-9416

Business Statement

Account Number:
1 575 1366 8200
Statement Period:
Sep 1, 2020
through
Sep 30, 2020



NON PROFIT CHECKING

(CONTINUED)

U.S. Bank National Association

Account Number 1-575-1366-8200

Customer Deposits (continued)

Total Customer Deposits \$ **3,738.60**

Other Deposits

Date	Description of Transaction	Ref Number	Amount
Sep 30	Interest Paid	3000003213	\$ 0.01

Total Other Deposits \$ **0.01**

Checks Presented Conventionally

Check	Date	Ref Number	Amount	Check	Date	Ref Number	Amount
3055	Sep 1	8355773768	123.08	3068	Sep 21	8056101510	178.64
3056	Sep 3	8954143593	280.29	3069	Sep 21	8055588988	58.56
3058*	Sep 2	8655090607	126.01	3070	Sep 21	8057498049	116.00
3059	Sep 10	8953095586	216.98	3071	Sep 17	8952031040	151.90
3060	Sep 18	9253914243	24.77	3072	Sep 16	8655233812	369.22
3061	Sep 14	8056355342	35.00	3073	Sep 21	8055588990	171.52
3062	Sep 25	9251864379	94.22	3074	Sep 21	8055558274	28.75
3063	Sep 3	8954143594	819.01	3075	Sep 28	8055977237	115.00
3065*	Sep 10	8953391078	21.10	3076	Sep 28	8057221069	58.30
3067*	Sep 16	8654774142	40.00	3077	Sep 29	8356588029	279.00

* Gap in check sequence

Conventional Checks Paid (20) \$ **3,307.35-**

Balance Summary

Date	Ending Balance	Date	Ending Balance	Date	Ending Balance
Sep 1	2,793.78	Sep 16	886.17	Sep 25	3,094.02
Sep 2	2,667.77	Sep 17	1,379.79	Sep 28	2,920.72
Sep 3	1,568.47	Sep 18	1,355.02	Sep 29	2,641.72
Sep 10	1,330.39	Sep 21	801.55	Sep 30	2,641.73
Sep 14	1,295.39				

Balances only appear for days reflecting change.

ANALYSIS SERVICE CHARGE DETAIL

Account Analysis Activity for: August 2020

Account Number:	1-575-1366-8200	\$	0.00
Analysis Service Charge assessed to	1-575-1366-8200	\$	0.00

Service Activity Detail for Account Number 1-575-1366-8200

Service	Volume	Avg Unit Price	Total Charge
Depository Services			
Combined Transactions/Items	35		No Charge
Subtotal: Depository Services			0.00
Fee Based Service Charges for Account Number 1-575-1366-8200			\$ 0.00

11:18 AM

10/06/20

Ferndale Unified School District
Reconciliation Summary
FUSD Revolving Cash, Period Ending 09/30/2020

	<u>Sep 30, 20</u>
Beginning Balance	2,210.47
Cleared Transactions	
Checks and Payments - 20 items	-3,307.35
Deposits and Credits - 4 items	3,738.61
Total Cleared Transactions	<u>431.26</u>
Cleared Balance	<u><u>2,641.73</u></u>
Uncleared Transactions	
Checks and Payments - 4 items	-370.02
Total Uncleared Transactions	<u>-370.02</u>
Register Balance as of 09/30/2020	<u><u>2,271.71</u></u>
New Transactions	
Checks and Payments - 2 items	-398.71
Deposits and Credits - 1 item	173.30
Total New Transactions	<u>-225.41</u>
Ending Balance	<u><u>2,046.30</u></u>

Ferndale Unified School District
Reconciliation Detail
FUSD Revolving Cash, Period Ending 09/30/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						2,210.47
Cleared Transactions						
Checks and Payments - 20 items						
Check	08/27/2020	3056	Alexa Alexandre	X	-280.29	-280.29
Check	08/27/2020	3058	Jennie Titus	X	-126.01	-406.30
Check	08/27/2020	3055	Theresa Noga	X	-123.08	-529.38
Check	09/01/2020	3063	Alexa Alexandre	X	-819.01	-1,348.39
Check	09/01/2020	3059	Theresa Noga	X	-216.98	-1,565.37
Check	09/01/2020	3062	Denise Grinsell	X	-94.22	-1,659.59
Check	09/01/2020	3061	Jinne Calvi	X	-35.00	-1,694.59
Check	09/01/2020	3060	Jeremy Griffith	X	-24.77	-1,719.36
Check	09/03/2020	3065	Jennie Titus	X	-21.10	-1,740.46
Check	09/10/2020	3068	Kim Wilson	X	-178.64	-1,919.10
Check	09/10/2020	3067	Erin Banke	X	-40.00	-1,959.10
Check	09/14/2020	3072	Yohei Shiraiishi	X	-369.22	-2,328.32
Check	09/14/2020	3071	Holly Soli	X	-151.90	-2,480.22
Check	09/14/2020	3070	Rex Rigney	X	-116.00	-2,596.22
Check	09/14/2020	3069	Alexa Alexandre	X	-58.56	-2,654.78
Check	09/17/2020	3073	Alexa Alexandre	X	-171.52	-2,826.30
Check	09/17/2020	3074	Vanessa Huerta	X	-28.75	-2,855.05
Check	09/25/2020	3075	Kim Wilson	X	-115.00	-2,970.05
Check	09/25/2020	3076	Kelly O'Day	X	-58.30	-3,028.35
Check	09/28/2020	3077	Shirley Soderman	X	-279.00	-3,307.35
Total Checks and Payments					-3,307.35	-3,307.35
Deposits and Credits - 4 items						
Deposit	09/01/2020			X	706.39	706.39
Deposit	09/11/2020			X	645.52	1,351.91
Deposit	09/25/2020			X	2,386.69	3,738.60
Deposit	09/30/2020			X	0.01	3,738.61
Total Deposits and Credits					3,738.61	3,738.61
Total Cleared Transactions					431.26	431.26
Cleared Balance					431.26	2,641.73
Uncleared Transactions						
Checks and Payments - 4 items						
Check	06/03/2020	3047	Marissa Hardwick		-30.00	-30.00
Check	09/02/2020	3064	Sharon Richardson		-35.00	-65.00
Check	09/10/2020	3066	Henry Chiles		-26.02	-91.02
Check	09/30/2020	3078	Shirley Soderman		-279.00	-370.02
Total Checks and Payments					-370.02	-370.02
Total Uncleared Transactions					-370.02	-370.02
Register Balance as of 09/30/2020					61.24	2,271.71
New Transactions						
Checks and Payments - 2 items						
Check	10/01/2020	3079	Alexa Alexandre		-363.71	-363.71
Check	10/01/2020	3080	Corrina Kitchen		-35.00	-398.71
Total Checks and Payments					-398.71	-398.71
Deposits and Credits - 1 item						
Deposit	10/05/2020				173.30	173.30
Total Deposits and Credits					173.30	173.30
Total New Transactions					-225.41	-225.41
Ending Balance					-164.17	2,046.30

11:19 AM

09/17/20

Ferndale High School
Reconciliation Summary
Student Body Funds, Period Ending 09/30/2020

	<u>Sep 30, 20</u>
Beginning Balance	43,376.04
Cleared Transactions	
Checks and Payments - 7 items	-9,760.73
Deposits and Credits - 1 item	0.33
Total Cleared Transactions	<u>-9,760.40</u>
Cleared Balance	<u><u>33,615.64</u></u>
Uncleared Transactions	
Checks and Payments - 6 items	<u>-1,858.33</u>
Total Uncleared Transactions	<u>-1,858.33</u>
Register Balance as of 09/30/2020	<u><u>31,757.31</u></u>
Ending Balance	31,757.31

11:19 AM

09/17/20

Ferndale High School
Reconciliation Detail
 Student Body Funds, Period Ending 09/30/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						43,376.04
Cleared Transactions						
Checks and Payments - 7 items						
Check	08/04/2020	2052	Brianna Brazil	X	-800.00	-800.00
Check	08/17/2020	2057	Dominic Regli	X	-3,600.00	-4,400.00
Check	08/26/2020	2061	Walsworth	X	-2,380.00	-6,780.00
Check	08/26/2020	2060	Emma Foley	X	-1,200.00	-7,980.00
Check	08/26/2020	2059	Ryan Broberg	X	-300.00	-8,280.00
Check	08/26/2020	2058	Theresa Noga	X	-280.73	-8,560.73
Check	08/31/2020	2063	Brianna Rimmey	X	-1,200.00	-9,760.73
Total Checks and Payments					<u>-9,760.73</u>	<u>-9,760.73</u>
Deposits and Credits - 1 item						
Deposit	09/12/2020			X	0.33	0.33
Total Deposits and Credits					<u>0.33</u>	<u>0.33</u>
Total Cleared Transactions					<u>-9,760.40</u>	<u>-9,760.40</u>
Cleared Balance					-9,760.40	33,615.64
Uncleared Transactions						
Checks and Payments - 6 items						
Check	03/19/2020	2029	Dave Griffiths		-55.86	-55.86
Check	08/10/2020	2056	Halee Nickols		-1,000.00	-1,055.86
Check	08/31/2020	2062	Macey Sutherland		-600.00	-1,655.86
Check	09/11/2020	2064	Erin Banke		-37.66	-1,693.52
Check	09/14/2020	2065	Alexa Alexandre		-73.13	-1,766.65
Check	09/17/2020	2066	Theresa Noga		-91.68	-1,858.33
Total Checks and Payments					<u>-1,858.33</u>	<u>-1,858.33</u>
Total Uncleared Transactions					<u>-1,858.33</u>	<u>-1,858.33</u>
Register Balance as of 09/30/2020					<u>-11,618.73</u>	<u>31,757.31</u>
Ending Balance					<u><u>-11,618.73</u></u>	<u><u>31,757.31</u></u>



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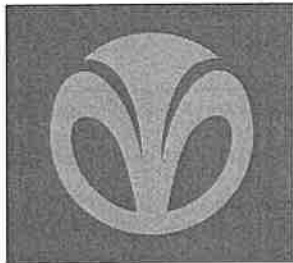
P.O. Box 909, Chico, CA 95927

YOUR STATEMENT

Customer Service: 1-800-922-8742
TriCountiesBank.com

Page: 1 of 2
Statement Date: 09-13-20
Primary Account: XXXXXXXX6479

COUNTY OF HUMBOLDT
FERNDALE UNIFIED SCHOOL DISTRI
1231 MAIN ST
FERNDALE CA 95536-9416



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Small Business Interest Chkg **Account: XXXXXXXX6479**

Account #	XXXXXXXX6479	Statement Dates	08-13-20 thru 09-13-20
Beginning Balance	43,376.04		
0 Deposits/Credits	0.00		
7 Checks/Debits	9,760.73		
Total Service Charges	0.00		
Interest Paid	0.33		
Ending Balance	33,615.64		

Transactions

<u>Date</u>	<u>Description</u>	<u>Amount</u>
9-11	Int Pmt Sys-Gen	0.33

Checks

<u>Check #</u>	<u>Date</u>	<u>Amount</u>	<u>Check #</u>	<u>Date</u>	<u>Amount</u>	<u>Check #</u>	<u>Date</u>	<u>Amount</u>
2052	8-17	800.00	2059	8-28	300.00	2063*	9-08	1,200.00
2057*	8-18	3,600.00	2060	9-02	1,200.00			
2058	9-02	280.73	2061	8-31	2,380.00			

* Indicates a Gap in Check Number Sequence

Continued on Next Page

Interest Summary

Interest Earned	8/13/20 thru 9/13/20
Days in Statement Cycle	32
Interest Earned	0.33
Annual Percentage Yield Earned	.01%
Interest Paid this Year	3.63
Interest Withheld this Year	0.00

End of Statement

11:16 AM

09/11/20

Ferndale Elementary School Student Accounts
Reconciliation Summary - 8-31-20
Checking, Period Ending 08/31/2020

	<u>Aug 31, 20</u>
Beginning Balance	19,444.41
Cleared Transactions	
Deposits and Credits - 1 item	<u>0.17</u>
Total Cleared Transactions	<u>0.17</u>
Cleared Balance	<u>19,444.58</u>
Register Balance as of 08/31/2020	19,444.58
Ending Balance	19,444.58

11:16 AM
09/11/20

Ferndale Elementary School Student Accounts
Reconciliation Detail - 8-31-20
Checking, Period Ending 08/31/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						19,444.41
Cleared Transactions						
Deposits and Credits - 1 item						
Deposit	08/31/2020			X	0.17	0.17
Total Deposits and Credits					0.17	0.17
Total Cleared Transactions					0.17	0.17
Cleared Balance					0.17	19,444.58
Register Balance as of 08/31/2020					0.17	19,444.58
Ending Balance					0.17	19,444.58

11:17 AM
09/11/20

Ferndale Elementary School Student Accounts
Check Detail - 8-31-20
August 2020

<u>Type</u>	<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Item</u>	<u>Account</u>	<u>Paid Amount</u>	<u>Original Amount</u>
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1:40 PM
 09/11/20
 Cash Basis

Ferndale Elementary School Student Accounts Custom Summary Report July 2004 through August 2020

	ASSETS	Equity	TOTAL LIABILITIES & EQUITY
3rd Grade	0.00	898.00	898.00
4th Grade	0.00	213.86	213.86
Boynton	0.00	380.69	380.69
Brazil	0.00	425.61	425.61
Busick	0.00	290.55	290.55
Collenberg	0.00	213.38	213.38
Currier	0.00	275.71	275.71
Donation			
4th Grade Donation	0.00	200.00	200.00
Brazil Donation	0.00	100.00	100.00
Busick Donation	0.00	90.79	90.79
Cinco de Mayo Donation	0.00	985.23	985.23
Collenberg Donation	0.00	542.19	542.19
Currier Donation	0.00	195.00	195.00
Griffith, J. Donation	0.00	100.00	100.00
Jr. High Donation	0.00	520.35	520.35
McWhorter Donation	0.00	95.76	95.76
Rigney Donation	0.00	100.00	100.00
Roseberry Donation	0.00	250.00	250.00
Totten Donation Income	0.00	150.00	150.00
Utroske Donation	0.00	100.00	100.00
Wilson Donation	0.00	250.00	250.00
Donation - Other	0.00	8,570.04	8,570.04
Total Donation	0.00	12,249.36	12,249.36
Duggan	0.00	-73.44	-73.44
Fisk-Becker	0.00	17.44	17.44
Griffith, A.	0.00	236.53	236.53
J. Griffith	0.00	3.50	3.50
Jr. High	0.00	1,170.05	1,170.05
McWhorter	0.00	71.43	71.43
Meyer	0.00	53.08	53.08
Miranda	0.00	55.68	55.68
Misc.	0.00	9.71	9.71
Music	0.00	44.34	44.34
Rigney	0.00	87.90	87.90
Rodriguez	0.00	75.83	75.83
Soderman	0.00	20.61	20.61
Soli	0.00	71.42	71.42
Student Council	0.00	132.53	132.53
Totten	0.00	44.70	44.70
Utroske	0.00	27.71	27.71
Wilson	0.00	60.46	60.46
Yearbook	0.00	2,387.94	2,387.94
TOTAL	0.00	19,444.58	19,444.58

001868



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SEP 10 2020
BY: _____

YOUR STATEMENT

Customer Service: 1-800-922-8742
TriCountiesBank.com

Page: 1 of 1
Statement Date: 08-31-20
Primary Account: XXXXXXXX6492

001868 0.4500 AV 0.389 TR00008

TCBK

COUNTY OF HUMBOLDT
STUDENT ACCOUNT
164 SHAW AVE
FERNDAL, CA 95536-9781



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Small Business Interest Chkg		Account: XXXXXXXX6492	
Account #	XXXXXXXX6492	Statement Dates	08-01-20 thru 08-31-20
Beginning Balance	19,444.41		
0 Deposits/Credits	0.00		
0 Checks/Debits	0.00		
Total Service Charges	0.00		
Interest Paid	0.17		
Ending Balance	19,444.58		

Transactions		
Date	Description	Amount
8-31	Int Pmt Sys-Gen	0.17

Interest Summary	
Interest Earned	8/01/20 thru 8/31/20
Days in Statement Cycle	31
Interest Earned	0.17
Annual Percentage Yield Earned	.01%
Interest Paid this Year	1.58
Interest Withheld this Year	0.00

End of Statement

TCBK-001-001868-001-000-200901 001868 X05
95536978164

9:12 AM

10/02/20

Ferndale Elementary School Athletic Account
Reconciliation Summary - 8-31-20
Checking, Period Ending 08/31/2020

	<u>Aug 31, 20</u>
Beginning Balance	9,039.92
Cleared Transactions	
Deposits and Credits - 1 item	<u>0.08</u>
Total Cleared Transactions	<u>0.08</u>
Cleared Balance	<u>9,040.00</u>
Register Balance as of 08/31/2020	9,040.00
Ending Balance	9,040.00

9:13 AM

10/02/20

Ferndale Elementary School Athletic Account
Reconciliation Detail - 8-31-20
Checking, Period Ending 08/31/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						9,039.92
Cleared Transactions						
Deposits and Credits - 1 item						
Deposit	08/31/2020			X	0.08	0.08
Total Deposits and Credits					0.08	0.08
Total Cleared Transactions					0.08	0.08
Cleared Balance					0.08	9,040.00
Register Balance as of 08/31/2020					0.08	9,040.00
Ending Balance					0.08	9,040.00

9:14 AM

10/02/20

Ferndale Elementary School Athletic Account
Check Detail - 8-31-20
August 2020

Type	Num	Date	Name	Item	Account	Paid Amount	Original Amount
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no checks

9:17 AM

10/02/20

Accrual Basis

Ferndale Elementary School Athletic Account
Profit & Loss - 8-31-20
July through August 2020

	<u>Jul - Aug 20</u>
Income	
Other Types of Income	
Miscellaneous Revenue	0.16
Total Other Types of Income	<u>0.16</u>
Total Income	<u>0.16</u>
Gross Profit	0.16
Expense	<u>0.00</u>
Net Income	<u><u>0.16</u></u>

001867



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YOUR STATEMENT

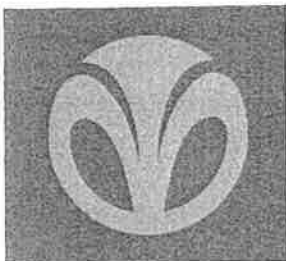
Customer Service: 1-800-922-8742
TriCountiesBank.com

Page: 1 of 1
Statement Date: 08-31-20
Primary Account: XXXXXXXX6467

001867 0.4500 AV 0.389 TR00008

TCBK

COUNTY OF HUMBOLDT
FERNDAL Unified School Distri
ATHLETIC
164 SHAW AVE
FERNDAL, CA 95536-9781



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Small Business Interest Chkg

Account: XXXXXXXX6467

Account #	XXXXXXXX6467	Statement Dates	08-01-20 thru 08-31-20
Beginning Balance	9,039.92		
0 Deposits/Credits	0.00		
0 Checks/Debits	0.00		
Total Service Charges	0.00		
Interest Paid	0.08		
Ending Balance	9,040.00		

Transactions

Date	Description	Amount
8-31	Int Pmt Sys-Gen	0.08

Interest Summary

Interest Earned	8/01/20 thru 8/31/20	
Days in Statement Cycle		31
Interest Earned		0.08
Annual Percentage Yield Earned		.01%
Interest Paid this Year		0.84
Interest Withheld this Year		0.00

End of Statement

TCBK-001-001867-001-000-200901 001867 X05
95536978164

Interest Summary

	8/01/20 thru 8/31/20
Interest Earned	31
Days in Statement Cycle	0.38
Interest Earned	.01%
Annual Percentage Yield Earned	4.36
Interest Paid this Year	0.00
Interest Withheld this Year	

End of Statement



1:46 PM
09/15/20

Ferndale Elementary School 8th Grade
Reconciliation Summary - 8-31-2020
Checking, Period Ending 08/31/2020

	<u>Aug 31, 20</u>
Beginning Balance	45,327.65
Cleared Transactions	
Checks and Payments - 2 items	-799.85
Deposits and Credits - 1 item	0.38
Total Cleared Transactions	<u>-799.47</u>
Cleared Balance	<u>44,528.18</u>
Uncleared Transactions	
Checks and Payments - 4 items	<u>-2,735.40</u>
Total Uncleared Transactions	<u>-2,735.40</u>
Register Balance as of 08/31/2020	<u>41,792.78</u>
Ending Balance	41,792.78

1:46 PM

09/15/20

Ferndale Elementary School 8th Grade
Reconciliation Detail - 8-31-20
 Checking, Period Ending 08/31/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						45,327.65
Cleared Transactions						
Checks and Payments - 2 items						
Check	05/20/2020	1456	Clara Christiansen	X	-683.85	-683.85
General Journal	08/31/2020	333	Screencastify LLC	X	-116.00	-799.85
Total Checks and Payments					-799.85	-799.85
Deposits and Credits - 1 item						
Deposit	08/31/2020			X	0.38	0.38
Total Deposits and Credits					0.38	0.38
Total Cleared Transactions					-799.47	-799.47
Cleared Balance					-799.47	44,528.18
Uncleared Transactions						
Checks and Payments - 4 items						
Check	05/20/2020	1474	Lauren Scalvini		-683.85	-683.85
Check	05/20/2020	1468	Miriam Munoz-Guerr...		-683.85	-1,367.70
Check	05/20/2020	1466	Brynn Luna		-683.85	-2,051.55
Check	05/20/2020	1464	Reaghan Langer		-683.85	-2,735.40
Total Checks and Payments					-2,735.40	-2,735.40
Total Uncleared Transactions					-2,735.40	-2,735.40
Register Balance as of 08/31/2020					-3,534.87	41,792.78
Ending Balance					-3,534.87	41,792.78

1:47 PM
09/15/20
Cash Basis

Ferndale Elementary School 8th Grade
Profit & Loss
July through August 2020

	<u>Jul - Aug 20</u>
Income	
Misc. Income	0.77
Total Income	0.77
Expense	
Misc. Ex.	149.60
Total Expense	149.60
Net Income	-148.83

1:49 PM
09/15/20

Ferndale Elementary School 8th Grade
Check Detail - 8-31-20
August 2020

Type	Num	Date	Name	Memo	Account	Paid Amount	Original Amount
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no checks

001866



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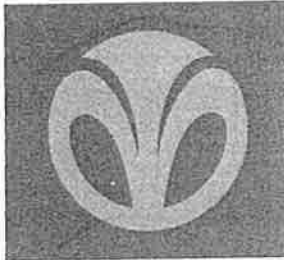
Customer Service: 1-800-922-8742
TriCountiesBank.com

Page: 1 of 2
Statement Date: 08-31-20
Primary Account: XXXXXXXX6261

001866 0.6500 AV 0.389 TR00008

TCBK

COUNTY OF HUMBOLDT
FERNDALÉ UNIFIED SCHOOL DISTRICT
FERNDALÉ 8TH GRADE ACCT
164 SHAW AVE
FERNDALÉ, CA 95536-9781



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Small Business Interest Chkg

Account: XXXXXXXX6261

Account #	XXXXXXXX6261	Statement Dates	08-01-20 thru 08-31-20
Beginning Balance	45,327.65		
0 Deposits/Credits	0.00		
5 Checks/Debits	799.85		
Total Service Charges	0.00		
Interest Paid	0.38		
Ending Balance	44,528.18		

Transactions

Date	Description	Amount
8-31	POS Pur 6051 Screencast Screencastify Premi 7089710794 IL	29.00-
8-31	Rec POS 6051 Screencast Screencastify Premi 7089710794 IL	29.00-
8-31	POS Pur 6051 Screencast Screencastify Premi 7089710794 IL	29.00-
8-31	POS Pur 6051 Screencast Screencastify Premi 7089710794 IL	29.00-
8-31	Int Pmt Sys-Gen	0.38

Checks

Check #	Date	Amount	Check #	Date	Amount	Check #	Date	Amount
1456	8-03	683.85						

* Indicates a Gap in Check Number Sequence

Continued on Next Page

TCBK-002-001866-001-001-200901 001866 X05
95536978164

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 9.4

DATE: October 14, 2020

SUBJECT:

Personnel Activity Report

DEPARTMENT/PROGRAM:

Administration/Personnel

ACTION REQUESTED:

Approve Personnel Activity Report

PREVIOUS STAFF/BOARD ACTION:

Board receives a report when there is any personnel activity.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Attached is a list of personnel activity.

FISCAL IMPLICATIONS:

None

CONTACT PERSON(S):

Denise Grinsell, Business Manager
Beth Anderson, Superintendent/Principal

FERNDALE UNIFIED SCHOOL DISTRICT
PERSONNEL REPORT
October 14, 2020

CURRENT VACANCIES – 2020-2021 SCHOOL YEAR

CERTIFICATED PERSONNEL

None

CLASSIFIED PERSONNEL

None

COACHING PERSONNEL

FHS - JV Boys Basketball

FHS - V Girls Soccer

FES – All coaching positions no hold until update on Elementary Sports Schedule

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM 9.5

DATE: October 14, 2020

SUBJECT:

FHS Sports Schedules

DEPARTMENT/PROGRAM:

Athletics/Administration

ACTION REQUESTED:

Approve

PREVIOUS STAFF/BOARD ACTION:

Seasonal schedules for athletic teams are brought to the Board for approval.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Seasonal schedules for athletic teams are brought to the Board for approval.

FISCAL IMPLICATIONS:

None

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.1

DATE: October 14, 2020

SUBJECT:

BP/E 3555 – Nutrition Program Compliance

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve Board Policy/Exhibit 3555 - Nutrition Program Compliance

PREVIOUS STAFF/BOARD ACTION:

BP/E 3555 is a new policy and exhibit.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Board Policy 3555 - Nutrition Program Compliance

Policy updated to reflect **NEW STATE REGULATIONS** (Register 2020, No. 21) which provide that complaints regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses should be submitted directly to the California Department of Education (CDE), and complaints alleging discrimination on the basis of race, color, national origin, sex, age, or disability should be submitted to the U.S. Department of Agriculture (USDA). Complaints regarding other program requirements or other bases for discrimination are to be investigated and resolved at the district level. Policy also deletes the USDA nondiscrimination statement that must be included on all forms of communication regarding program availability, which is now presented in the accompanying exhibit.

NEW - Exhibit 3555 - Nutrition Program Compliance

New exhibit presents the USDA statement, formerly in BP 3555, which must be included on all forms of communication available to the public regarding the availability of child nutrition programs in order to advise the public of the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints against the district.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

FERNDALE UNIFIED SCHOOL DISTRICT

BOARD POLICY

Business and Noninstructional Operations

BP 3555

NUTRITION PROGRAM COMPLIANCE

The Governing Board recognizes the district's responsibility to comply with state and federal nondiscrimination laws as they apply to the district's nutrition programs. The district shall not deny any individual the benefits or service of any nutrition program or discriminate on any basis prohibited by law.

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

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5030 - Student Wellness)

Compliance Coordinator

The Board shall designate a compliance coordinator for nutrition programs, who may also be the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures, to ensure compliance with the laws governing the district's nutrition programs.

The responsibilities of the compliance coordinator include, but are not limited to:

1. Providing the name of the compliance coordinator, and the Section 504 coordinator and Title IX coordinator if different from the compliance coordinator, to the California Department of Education (CDE) and other interested parties

(cf. 6164.6 - Identification and Education Under Section 504)

2. Annually providing mandatory civil rights training to all frontline staff who interact with program applicants or participants and to those who supervise frontline staff

The subject matter of such training shall include, but not be limited to, collection and use of data, effective public notification systems, complaint procedures, compliance review techniques, resolution of noncompliance, requirements for reasonable accommodation of persons with disabilities, requirements for language assistance, conflict resolution, and customer service.

3. Establishing admission and enrollment procedures that do not restrict enrollment of students on the basis of race, ethnicity, national origin, or disability, including preventing staff from incorrectly denying applications and ensuring that such persons have equal access to all programs

(cf. 6159 - Individualized Education Program)

4. Sending a public release announcing the availability of the child nutrition programs and/or changes in the programs to public media and to community and grassroots organizations that interact directly with eligible or potentially eligible participants
5. Communicating the program's nondiscrimination policy and applicable complaint procedures, as provided in the section "Notifications" below

BP 3555 NUTRITION PROGRAM COMPLIANCE (continued)

6. Providing appropriate translation services when a significant number of persons in the surrounding population have limited English proficiency
7. Ensuring that every part of a facility is accessible to and usable by persons with disabilities and that participants with disabilities are not excluded from the benefits or services due to inaccessibility of facilities
8. Ensuring that special meals are made available to participants with disabilities who have a medical statement on file documenting that their disability restricts their diet

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

9. Implementing procedures to process and resolve civil rights (discrimination) complaints and program-related complaints, including maintaining a complaint log, working with the appropriate person to resolve any complaint, and referring the complainant to the appropriate state or federal agency when necessary
10. Developing a method, which preferably uses self-identification or self-reporting, to collect racial and ethnic data for potentially eligible populations, applicants, and participants

(cf. 5022 - Students and Family Privacy Rights)

(cf. 5125 - Student Records)

(cf. 5145.13 - Response to Immigration Enforcement)

Notifications

The compliance coordinator shall ensure that the U.S. Department of Agriculture's (USDA) "And Justice for All" civil rights poster or a substitute poster approved by the USDA's Food and Nutrition Service is displayed in areas visible to the district's nutrition program participants, such as food service areas and school offices.

The compliance coordinator shall notify the public, all program applicants, participants, and potentially eligible persons of their rights and responsibilities and steps necessary to participate in the nutrition programs. Applicants, participants, and the public also shall be advised of their right to file a complaint, how to file a complaint, the complaint procedures, and that a complaint may be filed anonymously or by a third party.

(cf. 5145.6 - Parental Notifications)

In addition, the compliance coordinator shall ensure that all forms of communication available to the public regarding program availability shall contain, in a prominent location, a statement provided by USDA about the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints made against the district.

Forms of communication requiring this nondiscrimination statement include, but are not limited to, web sites, public information releases, publications, and posters, but exclude items such as cups, buttons, magnets, and pens that identify the program when the size or configuration makes it impractical. The nondiscrimination statement need not be included on every page of program information on the district's or school's web site, but the statement or a link to the statement shall be included on the home page of the program information.

A short version of the nondiscrimination statement, as provided by USDA, may be used on pamphlets, brochures, and flyers in the same print size as the rest of the text.

BP 3555 NUTRITION PROGRAM COMPLIANCE (continued)

Complaints of Discrimination

A complaint alleging discrimination in the district's nutrition program(s) on the basis of race, color, national origin, sex, age, or disability shall, within 180 days of the alleged discriminatory act, be filed or referred to USDA at: (5 CCR 15582)

U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, (866) 632-9992, (800) 877-8339 (Federal Relay Service - English, deaf, hard of hearing, or speech disabilities), (800) 845-6136 (Federal Relay Service - Spanish), fax (202) 690-7442, or email program.intake.usda.gov

Complaints of discrimination on any other basis shall be investigated by the district using the process identified in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Complaints Regarding Noncompliance with Program Requirements

Any complaint alleging that the district has not complied with program requirements pertaining to meal counting and claiming, reimbursable meals, eligibility of a child or adult, use of cafeteria funds and allowable expenses shall be filed with or referred to CDE. (Education Code 49556; 5 CCR 15584)

Complaints of noncompliance with any other nutrition program requirements shall be submitted to and investigated by the district using the following procedures.

Complaints may be filed by a student or the student's parent/guardian by phone, email, or letter. The complaint shall be submitted within one year from the date of the alleged violation and shall include the following: (5 CCR 15581)

BP 3555 NUTRITION PROGRAM COMPLIANCE continued)

1. A statement that the district has violated a law or regulation relating to its child nutrition program
2. The facts on which the statement is based
3. The name of the district or the school against which the allegations are made
4. The complainant's contact information
5. The name of the student if alleging violations regarding a specific student

The district shall investigate and prepare a written report pursuant to 5 CCR 4631. (5 CCR 15583)

OPTION 1:

Unless extended by written agreement with the complainant, the district's compliance coordinator shall investigate the complaint and prepare a written report to be sent to the complainant within 60 days of the district's receipt of the complaint. (5 CCR 15583; 5 CCR 4631)

NUTRITION PROGRAM COMPLIANCE (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
42238.01 Definitions for purposes of funding
48985 Notices to parents in language other than English
49060-49079 Student records
49490-49590 Child nutrition programs

PENAL CODE

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

3080 Application of section
4600-4670 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs
15580-15584 Child nutrition programs complaint procedures

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act
1681-1688 Discrimination based on sex or blindness, Title IX

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 7

210.19 National School Lunch Program, additional responsibilities
210.23 National School Lunch Program, district responsibilities
215.7 Special Milk Program, requirements for participation
215.14 Special Milk Program, nondiscrimination
220.7 School Breakfast Program, requirements for participation
220.13 School Breakfast Program, special responsibilities of state agencies
225.3 Summer Food Service Program, administration
225.7 Summer Food Service Program, program monitoring and assistance
225.11 Summer Food Service Program, corrective action procedures
226.6 Child and Adult Care Food Program, state agency administrative responsibilities
250.15 Out-of-condition donated foods, food recalls, and complaints

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act
36.303 Nondiscrimination on the basis of disability, public accommodations, auxiliary aids and services

CODE OF FEDERAL REGULATIONS, TITLE 34

100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI
104.1-104.39 Section 504 of the Rehabilitation Act of 1973
106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:
106.9 Dissemination of policy

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Civil Rights and Complaint Procedures for the U.S. Department of Agriculture Child Nutrition Programs, June 2018

U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE PUBLICATIONS

Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, November 2005

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

Notice of Non-Discrimination, August 2010

WEB SITES

California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>
U.S. Department of Agriculture, Food and Nutrition Services: <http://www.fns.usda.gov>
U.S. Department of Agriculture, Office for Civil Rights: <http://www.ascr.usda.gov>
U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/ocr>

Board Policy Adopted: October 14, 2020, Ferndale, CA.

NUTRITION PROGRAM COMPLIANCE

NONDISCRIMINATION STATEMENT FOR NUTRITION PROGRAMS

The following statement shall be included, in a prominent location, on all forms available to the public regarding the availability of the district's child nutrition programs:

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: <https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov

This institution is an equal opportunity provider."

On pamphlets, brochures, and flyers, in the same print size as the rest of the text, the district may print a short version of the nondiscrimination statement, as follows:

"This institution is an equal opportunity provider."

Exhibit Adopted: October 14, 2020, Ferndale, CA.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.2

DATE: October 14, 2020

SUBJECT:

Administrative Regulation 4030 - Nondiscrimination in Employment

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve AR 4030 - Nondiscrimination in Employment

PREVIOUS STAFF/BOARD ACTION:

This is a new administrative regulation. The board previously approved BP 4030 on February 11, 2015.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Administrative Regulation 4030 - Nondiscrimination in Employment

Regulation updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that allegations of sexual harassment that meet the federal definition be investigated through Title IX complaint procedures, as described in AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures, rather than the complaint procedures detailed in this regulation.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

FERNDALE UNIFIED SCHOOL DISTRICT – ADMINISTRATIVE REGULATION

All Personnel

AR 4030

NONDISCRIMINATION IN EMPLOYMENT

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, the following administrative regulation will not take effect.

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

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

(cf. 1240 - Volunteer Assistance)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

(cf. 4032 - Reasonable Accommodation)

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Superintendent

(position title)

1231 Main Street, Ferndale, CA 95536

(address)

707-786-5900

(telephone number)

banderson@ferndaleun2.org

(email)

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Department of Fair Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)

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

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.9)

AR 4030 NONDISCRIMINATION IN EMPLOYMENT (continued)

- a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
- b. Posting them in all district schools and offices, including staff lounges and other prominent locations
- c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 4111/4211/4311 - Recruitment and Selection)

3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
 - a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
 - e. Any other way that ensures employees receive and understand the policy

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

4. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
5. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

The district may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law

AR 4030 NONDISCRIMINATION IN EMPLOYMENT (continued)

7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

Complaint Procedure

Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.

Any other complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

(cf. 3580 - District Records)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

AR 4030 NONDISCRIMINATION IN EMPLOYMENT (continued)

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session)

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either DFEH or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with DFEH alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

Administrative Regulation Approved: October 14, 2020, Ferndale, CA.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.3

DATE: October 14, 2020

SUBJECT:

Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 - Sexual Harassment

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve BP and AR 4119.11/4219.11/4319.11 - Sexual Harassment

PREVIOUS STAFF/BOARD ACTION:

The board previously approved BP and AR 4119.11/4219.11/4319.11 on August 8, 2018.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Board Policy 4119.11/4219.11/4319.11 - Sexual Harassment

Policy updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that complaints of behavior that meets the federal definition of sexual harassment be addressed through new Title IX complaint procedures. Title of compliance officer changed to Title IX Coordinator pursuant to federal regulations, and responsibility assigned to Title IX Coordinator to receive complaints and determine the appropriate complaint procedure to use.

Administrative Regulation 4119.11/4219.11/4319.11 - Sexual Harassment

Regulation updated to reflect **NEW LAW (SB 778, 2019)** which (1) requires a district with five or more employees to provide two hours of sexual harassment training to supervisory employees and one hour of sexual harassment training to nonsupervisory employees by January 1, 2021 and every two years thereafter, and (2) requires new nonsupervisory employees and employees promoted to supervisory positions to receive the training within six months of hire or promotion. Regulation also reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require the district to designate a Title IX Coordinator and disseminate the Coordinator's contact information.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

Ferndale Unified School District Board Policy

All Personnel

BP 4119.11

4219.11

SEXUAL HARASSMENT

4319.11

Note: Education Code 231.5, **2 CCR 11023**, and **34 CFR 106.8** mandates the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - Sexual Harassment.

~~Generally, courts recognize two types of conduct as constituting sexual harassment. "Quid Pro Quo" ("this for that") sexual harassment is considered to have occurred when a person in a position of authority makes another individual's educational or employment benefits conditional upon that other person's willingness to engage in unwanted sexual behavior (e.g., promising a promotion for sex). "Hostile environment" sexual harassment, on the other hand, is conduct by the perpetrator that is so severe, persistent, or pervasive that it creates a hostile, intimidating, or abusive educational or professional environment for another. Sexual harassment also covers retaliatory behavior against a complainant, witness, or other participant in the complaint process. Pursuant to Government Code 12940 and 2 CCR 11009, interns, volunteers, and job applicants are entitled to the same protection against sexual harassment as applicable to employees.~~

Sexual harassment is prohibited pursuant to Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (20 USC 1681-1688; **34 CFR 106.1-106.82**), as well as the California Fair Employment and Housing Act (Government Code 12900-12996). **Whether a complaint of sexual harassment is addressed through federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, or procedures adopted pursuant to 2 CCR 11023 is dependent on whether the alleged conduct meets the more stringent federal definition of sexual harassment or the state definition. See the accompanying administrative regulation, AR 4030 - Nondiscrimination in Employment, and AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.**

Pursuant to 2 CCR 11034, the district may be liable for sexual harassment committed by a supervisor, coworker, or a third party. Pursuant to Government Code 12940, employers may **also** be held liable for sexual harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.

~~This~~ **The following** policy shall apply to all district employees, ~~and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and 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)

Note: Government Code 12940 clarifies that sexual harassment includes harassment based on sex, gender, pregnancy, childbirth, or related medical conditions.

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.**

~~This policy shall apply to all district employees and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and job applicants.~~

BP 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

Note: ~~In addition to district discipline imposed on employees who engage in sexual harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).~~

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

~~(cf. 4117.7/4317.7 – Employment Status Reports)~~

~~(cf. 4118 – Dismissal/Suspension/Disciplinary Action)~~

~~(cf. 4218 – Dismissal/Suspension/Disciplinary Action)~~

Note: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sexual harassment cases. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in Burlington Industries v. Ellerth held that, for certain claims under federal law, an employer may defend against sexual harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer.

Pursuant to Government Code 12950.1, **as amended by SB 778 (Ch. 215, Statutes of 2019)**, employers with **50 or more** employees are required to provide **two hours** of sexual harassment training to supervisory **and nonsupervisory** employees. See the accompanying administrative regulation for timelines and training requirements.

Items #1-4 below reflect the courts' guidance and Government Code 12950.1, and should be modified to reflect district practice.

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

~~(cf. 4112.9/4212.9/4312.9 – Employee Notifications)~~

3. Ensuring prompt, thorough, **and 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

Note: The following **optional** paragraph reflects a recommendation of the U.S. Equal Employment Opportunity Commission's informal guidance Promising Practices for Preventing Harassment and may be revised to reflect district practice.

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training.

Sexual Harassment Reports and Complaints

Note: Pursuant to 2 CCR 11034, the district may be liable for sexual harassment committed by a supervisor, coworker, or a third party. In addition, as part of its affirmative duty to prevent sexual harassment, the district is required pursuant to 2 CCR 11023 to instruct supervisors to report complaints. 34 CFR 106.8, as amended by 85 Fed. Reg. 30026, requires the district to designate at least one employee to coordinate its responsibilities under Title IX, who must be referred to as the Title IX Coordinator. See the accompanying administrative regulation.

34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not unreasonable in light of the known circumstances and in compliance with Title IX regulations. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. For this reason, the district should train all employees regarding the reporting process.

In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

Any district employees who feels that ~~he/she has~~ **they have** been sexually harassed in the performance of ~~his/her~~ **their** district responsibilities or who ~~has~~ **have** knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to ~~his/her~~ **their** direct supervisor, ~~another supervisor, a district administrator, or~~ the district's **Title IX** Ceordinator ~~for nondiscrimination, the Superintendent, or, if available, a complaint hotline or an ombudsman.~~ **Employees** may bypass ~~his/her~~ **their** supervisor in filing a complaint ~~where~~ **if** the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the **Title IX** Ceordinator.

Note: In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

~~Complaints of sexual harassment shall be filed and investigated in accordance with the complaint procedure specified in AR 4030 - Nondiscrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.~~

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through either AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures for complaints meeting the Title IX definition of sexual harassment or AR 4030 - Nondiscrimination in Employment for complaints meeting the state definition, as applicable, and shall offer supportive measures to the complainant.

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

~~All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (2 CCR 11023)~~

Note: In addition to district discipline imposed on employees who engage in sexual harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).

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

BP 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

(cf. 4117.7/4317.7 - *Employment Status Reports*)
(cf. 4118 - *Dismissal/Suspension/Disciplinary Action*)
(cf. 4218 - *Dismissal/Suspension/Disciplinary Action*)

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 receiving state financial assistance*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX prohibition against discrimination of the Education Amendments of 1972*

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~~ **106.82** *Nondiscrimination on the basis of sex in employment in education programs 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>

Board Policy Adopted: August 8, 2018. Updated: October 14, 2020, Ferndale, CA.

Ferndale Unified School District Administrative Regulation

All Personnel

AR 4119.11
4219.11
4319.11

SEXUAL HARASSMENT

Note: The following administrative regulation is **mandated** pursuant to Education Code 231.5 and includes reasonable steps for preventing the occurrence of discrimination and harassment as required pursuant to Government Code 12940 (California Fair Employment and Housing Act). The focus of this administrative regulation is on sexual harassment by and of employees. Pursuant to Government Code 12940 and 2 CCR 11009, interns, volunteers, and job applicants are entitled to the same protection against sexual harassment as applicable to employees.

For information related to sexual harassment involving students, see BP/AR 5145.7 - Sexual Harassment.

This 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.

Title IX Coordinator

Note: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX of the Education Amendments of 1972 and its implementing regulations. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the coordinator for nondiscrimination in employment pursuant to AR 4030 - Nondiscrimination in Employment. Districts may modify this policy to designate separate district employees to serve these functions.

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, as well as to investigate and resolve sexual harassment complaints under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

Superintendent

(title or position)
1231 Main Street, Ferndale, CA 95536

(address)
707 786 5900

(telephone number)
banderson@ferndalek12.org

(email)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

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)

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

AR 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

Definitions- Prohibited Conduct

Note: Alleged conduct that meets the federal definition of sexual harassment in 34 CFR 106.30, as added by 85 Fed. Reg. 30026, requires investigation and resolution through Title IX regulations; see AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Pursuant to 34 CFR 106.30, sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291)

Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. Conduct that does not meet the definition of sexual harassment in 34 CFR 106.30 shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment.

In *Oncale v. Sundowner Offshore Services, Inc.*, the U.S. Supreme Court held that same-sex sexual harassment could be actionable under Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17).

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, 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 when 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.**
- 3.4. 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.

Note: Pursuant to Government Code 12940, conduct may meet the definition of sexual harassment regardless of whether or not the alleged harasser is motivated by sexual desire for the victim.

Prohibited sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.

Note: Pursuant to Government Code 12940, the district may be held liable for sexual harassment committed against employees by clients, customers, or other third parties if the district knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that sexual harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.

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

AR 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

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

Training

Note: The following paragraph is consistent with a district's affirmative duty to protect its employees from sex discrimination, including sexual harassment, pursuant to 2 CCR 11023. In its informal guidance, Promising Practices for Preventing Harassment, the U.S. Equal Employment Opportunity Commission recommends that employers provide sexual harassment training to all employees, not just supervisors and managers. In addition, since BP/AR 5145.7 – Sexual Harassment requires employees to report sexual harassment against students, training employees to recognize and address sexual harassment incidents furthers the district's interest in protecting both employees and students against prohibited conduct. Thus, it is strongly recommended that districts periodically provide sexual harassment training or information to all their employees, especially those who work at school sites.

Provision of periodic training to all district employees could also help foster a positive work environment and mitigate damages against a district in the event of sexual harassment litigation. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court held that employers that have taken reasonable steps to prevent and correct workplace sexual harassment may be able to reduce damages in the event of a lawsuit. Such steps may include establishing anti-harassment policies and communicating those policies to employees.

The Superintendent or designee shall ensure that all employees receive training regarding the district's sexual harassment policies when hired and periodically thereafter. The training shall include how to recognize prohibited or harassing conduct, the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the district's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee. The training shall also include information about processes for employees to informally share or obtain information about harassment without filing a complaint.

(cf. 1312.3 – Uniform Complaint Procedures)
(cf. 4030 – Nondiscrimination in Employment)
(cf. 5145.7 – Sexual Harassment)

Note: Government Code 12950.1, as amended by SB 778 (Ch. 215, Statutes of 2019), requires districts with 50 five or more employees to provide two hours of sexual harassment training and education to **supervisory and nonsupervisory employees by January 1, 2021 (or two years after a training provided in 2019) and once every two years thereafter.** to every supervisory employee, defined as any employee with the authority to take employment action, including hiring, transferring, suspending, and disciplining other employees, or recommend such action if the exercise of that authority is not merely routine or clerical in nature. As amended, Government Code 12950.1 requires that new nonsupervisory employees be provided the training within six months of hire, consistent with the requirement for all All newly hired supervisors or employees promoted to a supervisory position must receive the training within six months of their hire or assumption of the supervisory position. Compliance with this law does not insulate the district from any liability for harassment.

AR 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

Governing Board members, as elected officials, are not usually considered "supervisors"; however, since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive sexual harassment training. Districts should consult with legal counsel to ensure that the appropriate individuals receive training.

Although the law does not require districts with fewer than 50 employees to provide sexual harassment training to supervisors, court decisions have held that providing training may help mitigate damages in sexual harassment lawsuits. The provision of supervisor training may also be a factor in determining whether a district has taken reasonable steps to prevent discrimination and harassment pursuant to Government Code 12940. Therefore, it is recommended that all districts, regardless of the number of employees, provide sexual harassment training. Districts with fewer than 50 employees that do not provide sexual harassment training may revise the remainder of this section to reflect district practice.

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 ~~such~~ newly hired **employees and or promoted** 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)

Note: Government Code 12950.1 and 2 CCR 11024 require that the training for supervisory employees contain specified components and be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

The district's sexual harassment training and education program ~~for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior.~~ The training 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 **on concerning** the prohibition, prevention, and correction of sexual harassment; ~~the remedies available to sexual harassment victims in civil actions, and potential district and/or individual exposure or liability~~
2. The types of conduct that constitute sexual harassment and ~~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~~
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. **Strategies to prevent harassment in the workplace**

AR 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

3.5. A supervisor's **Supervisors'** obligation to report sexual harassment, discrimination, and retaliation of which he/she they becomes aware and what to do if the supervisor himself/herself is personally accused of harassment

4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint

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

5.11. The essential elements of the district's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, 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.

6. A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received

7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance

Note: Item #8 below is required pursuant to Government Code 12950.1, as amended by SB 396 (Ch. 858, Statutes of 2017).

8.12. 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)

AR 4119.11/4219.11/4319.11 SEXUAL HARASSMENT (continued)

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)

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

Note: Government Code 12950 requires the Department of Fair Employment and Housing (DFEH) to develop an information sheet on employment discrimination and the illegality of sexual harassment **and a poster regarding the rights of transgender employees.** This document is **These documents are** available on DFEH's web site.

All employees shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or the district that contains, 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
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

Note: Government Code 12950, as amended by SB 396 (Ch. 858, Statutes of 2017), requires districts to post, in a prominent and accessible location, a poster developed by DFEH regarding transgender rights. This poster is available on DFEH's web site.

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)

Administrative Regulation Adopted: August 8, 2018. Updated: October 14, 2020, Ferndale, CA.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.4

DATE: October 14, 2020

SUBJECT:

NEW - Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sexual Harassment

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sexual Harassment

PREVIOUS STAFF/BOARD ACTION:

New AR

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

NEW - Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures

New regulation reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which establish a Title IX complaint procedure for addressing complaints of behavior that meets the federal definition of sexual harassment. Regulation describes the types of behavior subject to these complaint procedures, the process for filing a complaint with the Title IX Coordinator, the requirement to offer supportive measures to the complainant, the option for the parties to participate in an informal resolution process, required notifications, the investigation process, issuance of a written decision, the right to appeal the decision, and the requirement to maintain records of sexual harassment complaints and training materials for seven years.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

Ferndale Unified School District Administrative Regulation

All Personnel

AR 4119.12

4219.12

TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

4319.12

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, the following administrative regulation will not take effect.

Note: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.

The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment in employment that does not meet this definition should be addressed through the district's complaint procedures described in AR 4030 - Nondiscrimination in Employment.

34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.

Also see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sexual harassment.

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 was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

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)

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

All other sexual harassment complaints shall be investigated and responded to pursuant to AR 4030 - Nondiscrimination in Employment.

(cf. 4030 - Nondiscrimination in Employment)

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator using the contact information listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment.

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

Note: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations in which 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. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

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)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons 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, even if a formal complaint is not filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such 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. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

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)

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. Districts should also note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but requires that a student should not be "disciplined" prior to a finding being made pursuant to the grievance process established by 34 CFR 106.45. Due to this inconsistency in state and federal law, districts are advised to consult legal counsel as to the manner of imposing an emergency removal.

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 that 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, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, 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**

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

Formal Complaint Process

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, the district investigates allegations about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the 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**

Note: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and decision-maker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall provide either party with no less than three calendar days to raise concerns of conflict of interest or bias regarding any of these persons.

Note: Pursuant to 34 CFR 106.45, when investigating a formal complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party.

34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.

During the investigation process, the district 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**

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

- 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 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**
- 9. After sending the investigative report to the parties and before reaching a determination regarding responsibility, 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**

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.

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

Note: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult legal counsel.

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.

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

Written Decision

Note: Pursuant to 34 CFR 106.45, the person designated as the decision-maker of the determination of responsibility cannot be the same person designated as the Title IX Coordinator, an investigator, or the person who considers appeals. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the decision-maker and designate the Superintendent as the person to consider appeals.

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)

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)

Note: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. Districts may revise the following paragraph to include a different timeline as long as it would satisfy the requirement to act promptly.

The written decision shall be issued within 45 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)

Note: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.

In making this determination, the district 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 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**

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

6. The district's procedures and permissible bases for the complainant and respondent to appeal

Appeals

Note: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.

The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

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

An appeal must be filed in writing within 10 calendar days of receiving the determination, 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. Either party has the right to file a complaint with the U.S. Equal Employment Opportunity Commission.

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

Remedies

Note: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of, possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.

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

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

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 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, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

The Superintendent or designee shall also maintain for a period of seven years 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. (34 CFR 106.45)
(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*

AR 4119.12/4219.12/4319.12 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES
(continued)

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>

Administrative Regulation Adopted: October 14, 2020, Ferndale, CA.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.5

DATE: October 14, 2020

SUBJECT:

Administrative Regulation 5145.3 - Nondiscrimination/Harassment

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve Administrative Regulation 5145.3 - Nondiscrimination/Harassment

PREVIOUS STAFF/BOARD ACTION:

The board preciously adopted AR 5145.3 on April 10, 2019 Ferndale, California

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Administrative Regulation 5145.3 - Nondiscrimination/Harassment

Regulation updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that allegations of sexual harassment that meet the federal definition be investigated through Title IX complaint procedures, as described in AR 5145.71 - Title IX Sexual Harassment Complaint Procedures, rather than the district's uniform complaint procedures.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

Ferndale Unified School District Administrative Regulation

Students

AR 5145.3

NONDISCRIMINATION/HARASSMENT

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, portions of the following administrative regulation will not take effect.

Note: The following **mandated** administrative regulation provides measures that may be implemented by a district to comply with state and federal laws and regulations prohibiting unlawful discrimination at school or in school-sponsored or school-related activities, including discriminatory harassment, intimidation, and bullying, of any student based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, genetic information, or any other legally protected category or association with a person or group with one or more of these actual or perceived characteristics. Federal and state law also prohibit retaliation against those who engage in activity to protect civil rights.

5 CCR 4621 **mandates** the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying. In addition, 34 CFR 106.8 and other federal regulations **mandate** districts that receive federal financial assistance to adopt procedures for the "prompt and equitable" resolution of student and employee discrimination complaints, including the designation of one or more responsible employees to ensure district compliance with federal laws and regulations governing the district's educational programs.

During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for investigating complaints. The U.S. Department of Education's (USDOE) Office for Civil Rights (OCR) is the agency responsible for the administrative enforcement of federal antidiscrimination laws and regulations in programs and activities that receive federal financial assistance from the department. In reviewing a district's discrimination policies and procedures, OCR will examine whether the district has identified the employee(s) responsible for coordinating compliance with federal civil rights laws, including the investigation of complaints.

The following paragraphs ~~identify~~ the employee(s) designated to coordinate the district's efforts to comply with state and federal civil rights laws (e.g. Title IX and Section 504 coordinators), ~~including the investigation and resolution of~~ **as the same person designated to investigate and resolve** discrimination complaints under AR 1312.3 - Uniform Complaint Procedures. **Districts may modify the following paragraph to designate separate district employees to serve these functions.** Note also that a district may designate more than one employee to coordinate compliance and/or receive and investigate complaints, although each employee designated as a coordinator/compliance officer must be properly trained.

34 CFR 106.8, as amended by 85 Fed. Reg. 30026, requires that the employee designated by the district to coordinate its responsibilities under Title IX be referred to as the Title IX Coordinator. The Title IX Coordinator is responsible for receiving complaints of sexual harassment and determining whether the complaint should be appropriately addressed through AR 1312.3 or the federal Title IX complaint procedures pursuant to 34 CFR 106.44-106.45. The Title IX Coordinator may be the same person designated below and in AR 1312.3. See AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws; ~~including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975,~~ and to answer inquiries regarding the district's nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination targeting a student, including discriminatory harassment, intimidation, or bullying, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, AR

5145.3 NONDISCRIMINATION/HARASSMENT (continued)

ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, **medical condition**, sex, sexual orientation, gender, gender identity, gender expression, genetic information, or any other legally protected status or association with a person or group with one or more of these actual or perceived characteristics. The coordinator/compliance officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

Superintendent
(title or position)
1231 Main Street, Ferndale, CA 95536
(address)
707 786 5900
(telephone number)
vanderj@ferndale.k12.ca.us
(email)

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of students at district schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

Note: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, CDE is required to ensure that the district posts its nondiscrimination policies in all schools, offices, staff lounges, and student government meeting rooms.

In addition, federal regulations enforced by OCR require the district to notify students, parents/guardians, and employees of its policies prohibiting discrimination on the basis of sex (34 CFR 106.8, 106.9), disability (34 CFR 104.8 and 28 CFR 35.107), and age (34 CFR 110.25) and of related complaint procedures. **For notification requirements specifically pertaining to sexual harassment, see BP/AR 5145.7 - Sexual Harassment.**

1. Publicize the district's nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through district-supported communications

Note: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires a district, starting with the 2020-21 school year, to post its nondiscrimination policies on its web site as specified below. In addition to the policies listed below, if the district has a policy in regard to the prevention and response to hate violence, it is also required to be posted, and the following item should be modified accordingly. See BP 5145.9 - Hate-Motivated Behavior.

2. Post the district's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 5131.2 - Bullying)
(cf. 5145.9 - Hate-Motivated Behavior)

AR 5145.3 NONDISCRIMINATION/HARASSMENT (continued)

Note: Education Code 234.6, as added by AB 34, requires a district, starting in the 2020-21 school year, to post the definitions specified below.

3. Post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

Note: Education Code 221.61 requires districts and public schools to post on their web sites information related to Title IX (20 USC 1681-1688). Education Code 234.6, as added by AB 34, requires districts, beginning in the 2020-21 school year, to post the Title IX information required pursuant to 221.61 in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. Additionally, districts are required to provide a link to the Title IX information included on CDE's website pursuant to Education Code 221.6, in the same manner. A comprehensive list of rights based on the federal regulations implementing Title IX can be found in Education Code 221.8. A district that does not maintain a web site may comply by posting the information below on the web site of its county office of education. A school without a web site may comply by posting the information on the web site of the district or county office of education.

4. Post in a prominent location on the district web site in a manner that is easily accessible to parents/guardians and students information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the following: (Education Code 221.6, 221.61, 234.6)
 - a. The name and contact information of the district's Title IX eCoordinator, including the phone number and email address
 - b. The rights of students and the public and the responsibilities of the district under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)
 - c. A description of how to file a complaint of noncompliance under Title IX ~~in accordance with AR 1312.3—Uniform Complaint Procedures~~, which shall include:
 - (1) An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations
 - (2) An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on the OCR's web site
 - (3) A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office
 - d. A link to the Title IX information included on the California Department of Education's (CDE) web site

Note: Education Code 234.6, as added by AB 34, requires a district, starting in the 2020-21 school year, to post a link to statewide resources as specified below.

5. Post a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families. Such resources shall be posted in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.5, 234.6)
6. Provide to students a handbook that contains age-appropriate information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior.

AR 5145.3 NONDISCRIMINATION/HARASSMENT (continued)

7. Annually notify all students and parents/guardians of the district's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students, including transgender and gender-nonconforming students. The notice shall inform students and parents/guardians that they may request to meet with the compliance officer to determine how best to accommodate or resolve concerns that may arise from the district's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the district will address any individual student's interests and concerns in private.

(cf. 5145.6 - Parental Notifications)

Note: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires school districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2003 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on balancing four factors: (1) the number or proportion of LEP individuals likely to encounter or be served by the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient and costs. State law is more specific than federal law. Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

8. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the district's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning nondiscrimination shall be translated into that language in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

9. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include details of guidelines the district may use to provide a discrimination-free environment for all district students, including transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

10. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, against a student is required to intervene if it is safe to do so. (Education Code 234.1)

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

Note: Item #11 below may be revised to reflect district practice. In some situations, the district may need to provide assistance to a student to protect the student from harassment or bullying. Each situation will need to be analyzed to determine the most appropriate course of action to meet the needs of the student, based on the circumstances involved.

AR 5145.3 NONDISCRIMINATION/HARASSMENT (continued)

11. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights.

Enforcement of District Policy

The Superintendent or designee shall take appropriate actions to reinforce BP 5145.3 - Nondiscrimination/Harassment. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti
(cf. 5131.5 - Vandalism and Graffiti)
2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond
3. Disseminating and/or summarizing the district's policy and regulation regarding unlawful discrimination
4. Consistent with laws regarding the confidentiality of student and personnel records, communicating to students, parents/guardians, and the community the school's response plan to unlawful discrimination or harassment

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of district policy, including any student who is found to have filed a complaint of discrimination that the student knew was not true

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

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

(cf. 5144 - Discipline)

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

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

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Process for Initiating and Responding to Complaints

Note: Education Code 234.1 requires that districts adopt a process for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying. Such a process, which is required to be consistent with the uniform complaint procedures (UCP) specified in 5 CCR 4600-4670, must include (1) a requirement that school personnel who witness an act take immediate steps to intervene when safe to do so, (2) a timeline for investigating and resolving complaints, (3) an appeal process, and (4) translation of forms when required by Education Code 48985. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). OCR guidance on federal civil rights requirements notes that districts may have a responsibility to respond to notice of discrimination whether or not a formal complaint is filed. ~~In addition, districts may have an obligation to respond to notice of sexual harassment of students which occurs off school grounds or outside school-sponsored or school-related programs or activities, since the sexual harassment may still create a hostile environment at school. This principle would also apply to harassment on other bases, such as race, gender, or disability.~~

Complaints of sexual harassment must be addressed through the federal Title IX complaint procedures established pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, if the alleged conduct meets the federal definition of sexual harassment. Pursuant to 34 CFR 106.30, sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Allegations that do not meet this definition should be addressed through the district's UCP. See BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Students who feel that they have been subjected to unlawful discrimination described above or in district policy are strongly encouraged to immediately contact the compliance officer, principal, or any other staff member. In

AR 5145.3 NONDISCRIMINATION/HARASSMENT (continued)

addition, students who observe any such incident are strongly encouraged to report the incident to the compliance officer or principal, whether or not the alleged victim files a complaint.

Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the compliance officer or principal within a school day, whether or not the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

Note: Though a formal complaint must be in writing pursuant to 5 CCR 4600, the district's obligation to provide a safe school environment for its students overrides the need to comply with formalities. Thus, once the district receives notice of an incident, whether verbally or in writing, it is good practice to begin the investigation of the report and to take steps to stop any prohibited conduct and address any effect on students. The following paragraph reflects such practice and is consistent with OCR recommendation.

When a ~~verbal~~ report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal or compliance officer, the principal or compliance officer shall ~~make a note of the report and encourage~~ **notify** the student or parent/guardian **of the right to file a formal complaint in accordance with** ~~to file the complaint in writing, pursuant to the provisions in AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~ Once notified verbally or in writing, the ~~principal or~~ compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging unlawful discrimination by the principal, compliance officer, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent or designee who shall determine how the complaint will be investigated. (cf. 5141.4 - Child Abuse Prevention and Reporting)

Transgender and Gender-Nonconforming Students

Note: The term "gender identity" is not specifically defined in the Education Code. The following definition is consistent with case law and generally accepted terms within academia, as well as the Resolution Agreement between the Arcadia Unified School District, the U.S. Department of Education Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, which defines "gender identity" as "one's internal sense of gender, which may be different from one's assigned sex, and which is consistently and uniformly asserted, or for which there is other evidence that the gender identity is sincerely held as part of the student's core identity."

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth. (Education Code 210.7)

Gender transition refers to the process in which a student changes from living and identifying as the sex assigned to the student at birth to living and identifying as the sex that corresponds to the student's gender identity.

Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.

Transgender student means a student whose gender identity is different from the gender -assigned at birth.

AR 5145.3 NONDISCRIMINATION/HARASSMENT (continued)

The district prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature. Examples of the types of conduct which are prohibited in the district and which may constitute gender-based harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with the student's gender identity
2. Disciplining or disparaging a student or excluding the student from participating in activities, for behavior or appearance that is consistent with the student's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable
3. Blocking a student's entry to the restroom that corresponds to the student's gender identity
4. Taunting a student because the student participates in an athletic activity more typically favored by a student of the other sex
5. Revealing a student's transgender status to individuals who do not have a legitimate need for the information, without the student's consent
6. Using gender-specific slurs
7. Physically assaulting a student motivated by hostility toward the student because of the student's gender, gender identity, or gender expression

The district's uniform complaint procedures (AR 1312.3) **or Title IX sexual harassment procedures (AR 5145.71), as applicable**, shall be used to report and resolve complaints alleging discrimination against transgender and gender-nonconforming students.

Examples of bases for complaints include, but are not limited to, the above list, as well as improper rejection by the district of a student's asserted gender identity, denial of access to facilities that correspond with a student's gender identity, improper disclosure of a student's transgender status, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the district shall address each situation on a case-by-case basis, in accordance with the following guidelines:

Note: Timelines included in items #1-2 below may be modified to reflect district practice.

1. Right to privacy: A student's transgender or gender-nonconforming status is the student's private information and the district shall only disclose the information to others with the student's prior written consent, except when the disclosure is otherwise required by law or when the district has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. In any case, the district shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the district pursuant to 34 CFR 99.31. Any district employee to whom a student's transgender or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to a district employee by a student, the employee shall seek the student's permission to notify the compliance officer. If the student refuses to give permission, the employee shall keep the student's information confidential,

AR 5145.3 NONDISCRIMINATION/HARASSMENT (continued)

unless the employee is required to disclose or report the student's information pursuant to this administrative regulation, and shall inform the student that honoring the student's request may limit the district's ability to meet the student's needs related to the student's status as a transgender or gender-nonconforming student. If the student permits the employee to notify the compliance officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the compliance officer may discuss with the student any need to disclose the student's transgender or gender-nonconformity status or gender identity or gender expression to the student's parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The district shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and desire assistance in doing so.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

2. **Determining a Student's Gender Identity:** The compliance officer shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless district personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose.
3. **Addressing a Student's Transition Needs:** The compliance officer shall arrange a meeting with the student and, if appropriate, the student's parents/guardians to identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained. The meeting shall discuss the transgender or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the compliance officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as a transgender or gender-nonconforming individual, so that prompt action can be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the arrangements for the student are meeting the student's educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.

Note: Pursuant to Education Code 221.5, a district is required to permit a student to use facilities and participate in sex-segregated school programs and activities consistent with the student's gender identity, regardless of the gender listed on the student's educational records. Because Education Code 221.5 affords transgender students these rights, districts in California are not impacted by the February 22, 2017 action of the USDOE and U.S. Department of Justice to rescind earlier federal guidance which had indicated that, under Title IX, students must be allowed to use sex-segregated facilities in accordance with their gender identity. In implementing state law, districts may review recommended practices in the USDOE's Office of Elementary and Secondary Education's [Examples of Policies and Emerging Practices for Supporting Transgender Students](#). For more information on the rights of transgender students, see CSBA's [Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Discrimination](#).

4. **Accessibility to Sex-Segregated Facilities, Programs, and Activities:** When the district maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity. To address any student's privacy concerns in using sex-segregated facilities, the district shall offer available options such as a gender-neutral or single-use restroom or changing area, a bathroom stall with a door, an area in the locker room separated by a curtain or screen, or use of the locker room before or after the other students. However, the district shall not require a student to utilize these options because

the student is transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with the student's gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6153 - School-Sponsored Trips)

(cf. 7110 - Facilities Master Plan)

Note: Education Code 49062.5 and 49070, as added and amended by AB 711 (Ch. 179, Statutes of 2019), respectively, require districts to update a former student's records to change the student's name and/or gender as specified below. See AR 5125 - Student Records.

5. **Student Records:** A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed with proper documentation. When a student presents government-issued documentation of a name and/or gender change or submits a request for a name and/or gender change through the process specified in Education Code 49070, the district shall update the student's records. (Education Code 49062.5, 49070)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

6. **Names and Pronouns:** If a student so chooses, district personnel shall be required to address the student by a name and the pronoun(s) consistent with the student's gender identity, without the necessity of a court order or a change to the student's official district record. However, inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this administrative regulation or the accompanying district policy.

7. **Uniforms/Dress Code:** A student has the right to dress in a manner consistent with the student's gender identity, subject to any dress code adopted on a school site.

(cf. 5132 - Dress and Grooming)

Administrative Regulation Adopted: April 10, 2019. Updated: October 14, 2020, Ferndale, CA.

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.6

DATE: October 14, 2020

SUBJECT:

Board Policy and Administrative Regulation 5145.7 - Sexual Harassment

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve Board Policy and Administrative Regulation 5145.7 - Sexual Harassment

PREVIOUS STAFF/BOARD ACTION:

The board previously approved BP/AR 5145.7 on February 11, 2015.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

Board Policy 5145.7 - Sexual Harassment

Policy updated to include examples of actions to reinforce the district's sexual harassment policy, consistent with **NEW LAW (AB 34, 2019)** which requires posting the sexual harassment policy on the district's web site and **NEW LAW (AB 543, 2019)** which requires displaying a poster and providing the sexual harassment policy in student orientations. Policy also reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which require that complaints of behavior that meets the federal definition of sexual harassment be addressed through new Title IX complaint procedures. Title of compliance officer changed to Title IX Coordinator throughout policy pursuant to federal regulations.

Administrative Regulation 5145.7 - Sexual Harassment

Regulation updated to reflect **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which amend the process for resolving complaints of sexual harassment, including, but not limited to, requirements to designate a Title IX Coordinator and disseminate the Coordinator's contact information. Regulation also reflects **NEW LAW (AB 543, 2019)** which requires the district to create a poster notifying students of the district's sexual harassment policy and to display the poster in specified locations, and requires the district to provide a copy of the policy to students as part of any orientation program for new and continuing students. Regulation reflects **NEW LAW (AB 34, 2019)** which requires the district to post the district's sexual harassment policy and the definition of sexual harassment in a prominent location on the district's web site.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

Ferndale Unified School District Board Policy

Students

BP 5145.7

SEXUAL HARASSMENT

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, portions of the following administrative regulation will not take effect.

Note: Education Code 231.5 and 34 CFR 106.8 mandates the district to have written policies on sexual harassment. The following policy addresses harassment by and of students in the school setting. **As part of this mandate, the district should also adopt a sexual harassment policy related to employees; see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.**

~~Title IX of the Education Amendments of 1972 (20 USC 1681-1688) prohibits discrimination based on sex by recipients of federal financial assistance. School districts are responsible under Title IX and the regulations for the issuance of a policy against sex discrimination (34 CFR 106.8). Sexual harassment is a form of sex discrimination under Title IX and can deny or limit a student's ability to participate in or receive education benefits, services, or opportunities on the basis of that student's sex.~~

Both federal law (Title IX of the Education Amendments of 1972) (20 USC 1681-1688; 34 CFR 106.1-106.82) and state law (Education Code 220, 231.5) prohibit sexual harassment and require districts to establish procedures for the prompt and equitable resolution of sexual harassment complaints. Whether a complaint is addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, or the state uniform complaint procedures adopted pursuant to 5 CCR 4600-4670 is dependent on whether the alleged conduct meets the more stringent federal definition or the state definition of sexual harassment. See the accompanying administrative regulation, BP/AR 1312.3 - Uniform Complaint Procedures, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

~~A district can be held liable for civil damages for the sexual harassment of students pursuant to Title IX and/or Education Code 220, if the district is found to have been "deliberately indifferent" in its response to known sexual harassment. In Davis v. Monroe County Board of Education the U.S. Supreme Court held that a district would be deliberately indifferent if (1) the harasser and the context in which the sexual harassment occurred were within the district's control; (2) the harassment was so severe, pervasive, and objectively offensive that it deprived a student of access to educational opportunities or benefits provided by the district; (3) the district had actual knowledge of the harassment; and (4) the district's conduct was unreasonable considering the surrounding circumstances. This standard was applied by an appellate court in Donovan v. Poway Unified School District based on Education Code 220. Pursuant to 34 CFR 106.30, a district is deliberately indifferent if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.~~

~~In addition to filing a private civil lawsuit, an alleged victim of sexual harassment may file a complaint with the California Department of Education (CDE) and/or the U.S. Department of Education's Office for Civil Rights (OCR), the federal agency responsible for administrative enforcement of federal laws and regulations that prohibit discrimination in programs and activities that receive federal financial assistance from the U.S. Department of Education. OCR applies a different standard than the "deliberate indifference" standard when addressing complaints against a district. Under OCR's enforcement standards, a district may be held to be in violation when a student is subjected to harassing conduct by another student, an employee, or a third party, and (1) the district knows or should know about the harassment, (2) the harassment is sufficiently serious as to create a hostile educational environment for the student, and (3) the district failed to take appropriate responsive actions. In other words, while a district is not responsible for the conduct of the other student or the third party, it may be liable for failing to respond adequately once it has notice. However, if a student is sexually harassed by an employee who was acting in the context of his/her job responsibilities, the district may be in violation of Title IX whether or not it has notice.~~

~~CSBA staff met with representatives from CDE and OCR to discuss this policy and the accompanying regulation as they relate to the uniform complaint procedure (UCP) requirements. As a result, the sample policy and regulation have been drafted to go beyond the minimal requirements under California's UCP laws and regulations in an attempt to address issues and concerns raised by CDE and OCR. While CDE and OCR have not approved or signed off on them, CSBA believes that the additional details provided herein may help school districts and county offices of education during any compliance check by CDE or in the event that a CDE or OCR investigation occurs.~~

BP 5145.7 SEXUAL HARASSMENT (continued)

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.

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

Note: OCR's January 2001 Revised Sexual Harassment Guidance notes that, regardless of whether a harassed student, his/her parent/guardian, or a third party files a complaint under the district procedures or otherwise requests action on the student's behalf, a school that knows, or reasonably should know, about possible harassment must promptly take action to determine what occurred and then take appropriate steps to resolve the situation. Even where a parent/guardian or student does not wish to disclose the student's identity, there are steps a school can take to limit the effects of alleged harassment and prevent its recurrence without initiating formal action. Such steps may include limited investigative activities and actions to protect the complainant and the school community and prevent recurrence while keeping the identity of the complainant confidential. These actions may include providing services to the complainant, such as counseling services; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; or changing and publicizing the school's policies on sexual violence. OCR has indicated that the principles in its Revised Sexual Harassment Guidance also apply to harassment based on race, color, national origin, disability, or age. 34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment in an education program or activity, to respond promptly in a manner that is not unreasonable in light of the known circumstances. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school.

It is also important to note that a referral to law enforcement does not relieve a school district of its responsibility to investigate the complaint as a matter of sex discrimination.

The district strongly encourages **any** students who feels that **he/she is they are** being or **has have** been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult, or who **has have** experienced off-campus sexual harassment that has a continuing effect on campus, to immediately contact **his/her their** teacher, the principal, **the district's Title IX Coordinator**, 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 Title IX Coordinator**.

Once notified, the **principal or compliance officer Title IX Coordinator** shall **take the steps to investigate and address the allegation, ensure the complaint is addressed through Title IX complaint procedures or uniform complaint procedures, as applicable, and shall offer supportive measures to the complainant as specified in the accompanying administrative regulation.**

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(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. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

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

BP 5145.7 SEXUAL HARASSMENT (continued)

Note: ~~Government Code 12950.1 requires any district with 50 or more employees to provide two hours of sexual harassment training and education to supervisory employees once every two years. See AR 4119.11/4219.11/4319.11 – Sexual Harassment. Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to post the district's written policy on sexual harassment in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students.~~

Education Code 231.6, as added by AB 543 (Ch. 428, Statutes of 2019), requires districts serving students in grades 9-12 to create a poster that notifies students of the district's sexual harassment policy, and to display it prominently and conspicuously in each bathroom and locker room on campus. Education Code 231.5, as amended by AB 543, requires the district to provide a copy of the district's sexual harassment policy as part of any orientation program conducted for new and continuing students.

Pursuant to 34 CFR 106.8, the district is required to notify students, parents/guardians, employees, and bargaining units of its policy to not discriminate on the basis of sex as well as its complaint procedures and processes, and to post this information in a prominent location on the district's web site and in student and staff handbooks.

Requirements related to the dissemination of the district's sexual harassment policy and procedures and best practices for reinforcing the policy are addressed in the accompanying administrative regulation.

The Superintendent or designee shall ~~take appropriate actions to reinforce~~ **inform students and parents/guardians of the district's sexual harassment policy by disseminating it through parent/guardian notifications, publishing it on the district's web site, and including it in student and staff handbooks. All district staff shall be trained regarding the 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~~ **when** the alleged victim of the harassment has not complained

Note: Where sexual harassment or violence occurs in the context of other possible rule violations, students may be reluctant to report sexual harassment or violence. For example, a student who is sexually harassed while ~~he/she is~~ away from school without permission may be reluctant to file a complaint if ~~he/she~~ **the student** believes ~~that he/she may be~~ disciplined **will be imposed** for the violation. As such, item #4 below clarifies that any other rule violation will be addressed separately from the sexual harassment complaint in order to encourage students to report the harassment.

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~~ **prompt** action shall be taken to ~~stop any~~ **respond to** harassment, prevent recurrence, and address any continuing effect on students

BP 5145.7 SEXUAL HARASSMENT (continued)

6. Information about the district's procedures 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 implement supportive** 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

Note: Pursuant to Education Code 231.5, the district's policy must contain information on where to obtain the specific procedures for reporting incidents of sexual harassment and pursuing available remedies. In addition, 34 CFR 106.8 requires a district to adopt and publish a complaint procedure providing for a prompt and equitable resolution of student complaints alleging sexual harassment. To avoid confusion that may arise from having a multiplicity of complaint processes for resolving a variety of student complaints, it is recommended that districts use the UCP to investigate and resolve sexual harassment complaints involving students. See AR 1312.3—Uniform Complaint Procedures for details of these procedures.

~~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)

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. Education Code 48900.2 also requires the sexual harassment, when considered from the perspective of a reasonable person of the same gender as the alleged victim, to be sufficiently severe or pervasive as to have a negative impact upon the alleged victim's academic performance or to create an intimidating, hostile, or offensive educational environment for the alleged victim. Under OCR's 2001 Revised Sexual Harassment Guidance interpreting Title IX, a hostile environment is created when the conduct is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both the subjective perspective of the individual who was harassed and from the perspective of a reasonable person with the same characteristics as the alleged victim. Districts should also note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

Upon **completion of an** 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 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 Report)

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

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

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

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

BP 5145.7 SEXUAL HARASSMENT (continued)

Record-Keeping

In accordance with law, tThe 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

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, ~~discrimination~~ **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-~~106.71~~ **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, (~~2001~~ 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

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>

Board Policy Adopted: February 11, 2015. Updated: October 14, 2020

Ferndale Unified School District Administrative Regulation

Students

AR 5145.7

SEXUAL HARASSMENT

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. However, in June 2020, two motions for a preliminary injunction were filed seeking to postpone the effective date of the regulations and prohibit their enforcement. If the court issues an injunction, portions of this administrative regulation reflecting the Title IX regulations will not be in effect. CSBA will notify districts when the court issues its decision.

Districts are also cautioned that the federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions arise.

Note: Education Code 231.5 and Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibit discrimination based on sex, including sexual harassment, and mandate that the district adopt and publish complaint procedures. Also see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Title IX Coordinator

Note: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are **mandated** to designate an employee to ensure district compliance with Title IX of the Education Amendments of 1972 and its implementing regulations, including the investigation of complaints alleging sex discrimination. The following paragraph specifies the position designated as the district's Title IX Coordinator and compliance officer for purposes of complaints alleging sex discrimination, including sexual harassment, filed under that the Title IX Coordinator will be the same person(s) designated to serve as the compliance officer(s) for the district's uniform complaint procedures pursuant to AR 1312.3 - Uniform Complaint Procedures. Districts may modify this regulation to designate separate district employees to serve these functions; the district should modify the following paragraph accordingly.

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 and California Education Code 234.1, as well as to investigate and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The coordinator/compliance officer(s) **Title IX Coordinator(s)** may be contacted at:

Superintendent
(title or position)
1231 Main Street Ferndale, CA 95526
(address)
707 786 5900
(telephone number)
banderson@ferndalek12.org
(email)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

The district shall notify students, parents/guardians, 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)

Prohibited Conduct

Note: Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's

AR 5145.7 SEXUAL HARASSMENT (continued)

academic performance or to create an intimidating, hostile, or offensive educational environment for the victim; see AR 5144.1 - Suspension and Expulsion/Due Process. **Conduct that meets the federal definition of sexual harassment in 34 CFR 106.30 (i.e., (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291) requires investigation and resolution through Title IX regulations; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.**

~~Under the U.S. Department of Education's Office for Civil Rights (OCR) 2001 Revised Sexual Harassment Guidance interpreting Title IX, sexual harassment is unwelcome conduct of a sexual nature. A hostile environment is created when the conduct is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both the subjective perspective of the individual who was harassed and from the perspective of a reasonable person with the same characteristics as the victim.~~

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, 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.
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 district program or activity.

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

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

Note: The following list contains common examples of sexual harassment from the OCR January 2001 Revised Sexual Harassment Guidance, and definitions specified in 5 CCR 4916.

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature

AR 5145.7 SEXUAL HARASSMENT (continued)

5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

Notifications

A copy of the district'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 in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

Note: Education Code 231.6, as added by AB 543 (Ch. 428, Statutes of 2019), requires districts serving students in grades 9-12 to create a poster that notifies students of the district's sexual harassment policy, and to display it, as specified below. The district may partner with local, state, or federal agencies, or nonprofit organizations, for the purposes of the design and content of the poster.

3. Be summarized on a poster which shall be prominently and conspicuously displayed in each bathroom and locker room at each school. The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report a charge of sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

Note: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to post on the district's web site the district's written policy on sexual harassment as well as other state and federal law requirements, in the manner specified below. 34 CFR 106.8 also requires districts that have web sites to prominently display the contact information for the Title IX Coordinator and the district's nondiscrimination policy on its web site.

AR 5145.7 SEXUAL HARASSMENT (continued)

4. Be posted in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. This shall include the name or title, office address, email address, and telephone number of the employee(s) designated as the district's Title IX Coordinator. (Education Code 234.6; 34 CFR 106.8)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

Note: Education Code 231.5, as amended by AB 543, requires the district to provide a copy of the district's sexual harassment policy as part of any orientation program conducted for new and continuing students.

- 3-5. Be provided as part of any orientation program conducted for new and continuing students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
- 4.6. 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)

Note: Items #5 and #6 #7-8 below are optional.

- 5-7. Be included in the student any handbook provided to students, parents/guardians, employees, or employee organizations (34 CFR 106.8)

6. Be provided to employees and employee organizations

Reporting Complaints Process and Complaint Investigation and Resolution

Note: The following reporting process details site level steps to be taken by students and others for reporting sexual harassment incidents. In its January 2001 Revised Sexual Harassment Guidance, OCR acknowledges that procedures adopted by districts to address student harassment complaints will vary considerably depending on a number of factors, including the size of the district.

Pursuant to Education Code 231.5, the district's policy must contain information on where to obtain the specific procedure for reporting incidents of sexual harassment and pursuing available remedies. In addition, 34 CFR 106.8 requires a district to adopt and publish a complaint procedure providing for a "prompt and equitable" resolution of student complaints alleging sexual harassment. To avoid confusion that may arise from having a multiplicity of complaint processes for resolving a variety of student complaints, it is recommended that districts use their uniform complaint procedures (UCP) to investigate and resolve sexual harassment complaints involving students and to track complaints through a districtwide system. See AR 1312.3 Uniform Complaint Procedures for details of these procedures.

Any student or parent/guardian who believes that he/she the student has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to his/her a teacher, the principal, the district's Title IX Coordinator, or any other available school employee. Within one school day of receiving such a report, the principal or other school employee shall forward the report to the principal or the district's compliance officer identified in AR 1312.3 Title IX Coordinator. In addition, any Any school employee who observes an incident of sexual harassment involving a student shall, within one school day, report his/her the observation to the principal or a district compliance officer Title IX Coordinator, regardless of . The employee shall take these actions, whether or not the alleged victim files a formal complaint.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

When a report or complaint of sexual harassment involves off-campus conduct, the principal Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If he/she the Title IX Coordinator determines that a hostile environment may be created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

AR 5145.7 SEXUAL HARASSMENT (continued)

When a verbal or informal report of sexual harassment is submitted, the ~~principal or compliance officer~~ **Title IX Coordinator** shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with ~~the applicable~~ **the applicable** district's uniform complaint procedures. ~~Regardless of whether a formal complaint is filed, the principal or compliance officer shall take steps to investigate the allegations and, if sexual harassment is found, shall take prompt action to stop it, prevent recurrence, and address any continuing effects.~~

Complaint Procedures

All complaints of sexual harassment by and against students 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 5145.71 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 1312.3 - Uniform Complaint Procedures.

~~If a complaint of sexual harassment is initially submitted to the principal, he/she shall, within two school days, forward the report to the compliance officer to initiate investigation of the complaint. The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and district procedures specified in AR 1312.3.~~

~~In investigating a sexual harassment complaint, evidence of past sexual relationships of the victim shall not be considered, except to the extent that such evidence may relate to the victim's prior relationship with the respondent.~~

~~In any case of sexual harassment involving the principal, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted to the Superintendent or designee who shall determine who will investigate the complaint.~~

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Confidentiality

~~Note: Pursuant to 5 CCR 4964, districts are required to keep complaints and allegations of sexual harassment confidential, except when disclosure is necessary to further the investigation, other needed remedial action, or ongoing monitoring.~~

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

~~Note: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records such as the description of the corrective actions taken in response to a complaint of sexual harassment. Thus, districts are advised to consult legal counsel in determining what information must be included in the final written decision sent to the complainant and what information must not be included.~~

~~In determining what information to include and not include in the final written decision for complaints regarding sexual harassment, districts should be aware that current law (20 USC 1221) states that nothing in FERPA is to "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." OCR has interpreted these provisions to mean that FERPA permits a district to disclose to a student, who was subjected to sexual harassment, certain information about the sanctions imposed upon the offender when the sanctions directly relate to the student. For instance, if properly remedying the impact of sexual harassment would require disclosing to the alleged victim certain information on how the district disciplined the alleged student offender (e.g., a stay away order), OCR would require the district to disclose that information.~~

AR 5145.7 SEXUAL HARASSMENT (continued)

OCR's Revised Sexual Harassment Guidance indicates that if a complainant in a sexual harassment case requests that his/her name or that of the victim not be revealed to the alleged perpetrator or asks that the complaint not be pursued, the district should first inform the complainant that honoring the request may limit its ability to respond and pursue disciplinary action against the alleged perpetrator. However, in all instances, the district must continue to ensure that it provides a safe and nondiscriminatory environment for all students. If there is a high risk of harm to the complainant or others (e.g., if the district has information that the alleged perpetrator is a repeat offender) and the district cannot respond adequately to the risk without disclosing the complainant's identity, then in such limited circumstances the district may be required to investigate the incident and disclose the complainant's identity. If the district determines that it will respect the confidentiality request, it should nevertheless take all reasonable steps to investigate and respond to the complaint. Such steps may include limited investigative activities that do not require the district to reveal the complainant's identity; providing services to the complainant, such as counseling services; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; or changing and publicizing the district's policies on sexual violence.

However, when a complainant or victim of sexual harassment notifies the district of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit the district's ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, the district will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

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

(cf. 4119.23/4219.23/4319.23—Unauthorized Release of Confidential/Privileged Information)
(cf. 5125—Student Records)

Response Pending Investigation

Note: The following reporting process may be revised to reflect district practice. In its Q&A on Campus Sexual Misconduct, OCR cautions that schools are responsible for redressing a hostile environment that occurs on campus even if it relates to off-campus activities.

When an incident of sexual harassment is reported, the principal or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary pending the results of the investigation. The principal/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. To the extent possible, such interim measures shall not disadvantage the complainant or victim of the alleged harassment. Interim measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher, in accordance with law and Board policy. The school should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such actions shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school sponsored or school related programs or activities.

Notifications

Note: In its January 2001 Revised Sexual Harassment Guidance, OCR states that a procedure for sexual harassment complaints cannot be prompt or equitable unless it is widely disseminated and written in language appropriate to the age of the school's students. Examples include having a copy of the procedures available throughout the school, publishing the procedures in the student handbook, and identifying individuals who can explain the procedure.

A copy of the district'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)

AR 5145.7 SEXUAL HARASSMENT (continued)

(cf. 5145.6 Parental Notifications)

Note: In its April 2015 Dear Colleague Letter: Title IX Coordinators, OCR recommends that districts use web posting and social media to disseminate their nondiscrimination notices, policies, and procedures and communicate the contact information for current compliance officer(s) to students, parents/guardians, and employees. Item #2 below may be modified to reflect the means used by the district to disseminate its sexual harassment policy and regulation.

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

A copy of the district's sexual harassment policy and regulation shall be posted on district and school web sites and, when available, on district-supported social media.

(cf. 1113 District and School Web Sites)

(cf. 1114 District Sponsored Social Media)

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 district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

Note: Items #5 and #6 below are optional.

5. Be included in the student handbook

6. Be provided to employees and employee organizations

Ferndale Unified School District

SUPERINTENDENT'S RECOMMENDATION FOR BOARD ACTION

AGENDA ITEM: 10.7

DATE: October 14, 2020

SUBJECT:

Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures

DEPARTMENT/PROGRAM:

Administration

ACTION REQUESTED:

Receive/Discuss/Approve AR 5145.71 - Title IX Sexual Harassment Complaint Procedures

PREVIOUS STAFF/BOARD ACTION:

This is a new Administrative Regulation.

BACKGROUND INFORMATION AND/OR STATEMENT OF NEED:

NEW - Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures

New regulation reflects **NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026)** which establish a Title IX complaint procedure for addressing complaints of behavior that meets the federal definition of sexual harassment. Regulation describes the types of behavior subject to these complaint procedures, the process for filing a complaint with the Title IX Coordinator, the offer of supportive measures to the complainant, the option for the parties to participate in an informal resolution process, required notifications, the investigation process, issuance of a written decision, the right to appeal the decision, and the requirement to maintain records of sexual harassment complaints and training materials for seven years.

FISCAL IMPLICATIONS:

None.

CONTACT PERSON(S):

Beth Anderson, Superintendent/Principal

Ferndale Unified School District Administrative Regulation

Students

AR 5145.71

TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, the following administrative regulation will not take effect.

Note: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.

The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment that does not meet this definition should be addressed through the district's uniform complaint procedures (UCP); see BP/AR 1312.3 - Uniform Complaint Procedures.

34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment in an education program or activity, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of the district. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.

See BP/AR 5145.7 - Sexual Harassment for information about prohibited conduct, student instruction, required notifications, and processes for reporting sexual harassment.

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 was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

1. A district employee conditioning the provision of a district aid, benefit, or service on the student'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

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

All other sexual harassment complaints shall be investigated and responded to pursuant to AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator using the contact information listed in AR 5145.7 - Sexual Harassment.

(cf. 5145.7 - Sexual Harassment)

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

Note: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations in which 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. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

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)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons 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, even if a formal complaint is not filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such 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. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

Emergency Removal from School

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. Districts should also note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but requires that a student should not be "disciplined" prior to a finding being made pursuant to the grievance process established by 34 CFR 106.45. Due to this inconsistency in state and federal law, districts are advised to consult legal counsel as to the manner of imposing an emergency removal.

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

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 that 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, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, 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**
- 3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student**

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

Formal Complaint Process

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, the district investigates allegations about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the 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

Note: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and decision-maker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall provide either party with no less than three calendar days to raise concerns of conflict of interest or bias regarding any of these persons.

Note: Pursuant to 34 CFR 106.45, when investigating a formal complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party. 34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.

During the investigation process, the district 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

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

- 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 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**
- 9. After sending the investigative report to the parties and before reaching a determination regarding responsibility, 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**

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.

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

Note: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult legal counsel.

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

Note: Pursuant to 34 CFR 106.45, the person designated as the decision-maker of the determination of responsibility cannot be the same person designated as the Title IX Coordinator, an investigator, or the person who considers appeals. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the decision-maker and designate the Superintendent as the person to consider appeals.

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

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)

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)

Note: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. The following paragraph specifies a 45-day period so that, in the event it is determined that the alleged conduct does not meet the definition of sexual harassment pursuant to Title IX regulations, there will be time for the district to complete the resolution of the complaint through uniform complaint procedures within the required 60-day period for that process. Districts may revise the following paragraph to include a different timeline as long as it would satisfy the requirement to act promptly.

The written decision shall be issued within 45 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)

Note: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.

In making this determination, the district shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (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 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**

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

Appeals

Note: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.

The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

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

An appeal must be filed in writing within 10 calendar days of receiving the determination, 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. Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

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

Remedies

Note: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of, possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.

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)

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

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)

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 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, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

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

(cf. 3580 - District Records)

AR 5145.71 TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES (continued)

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:

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>