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51.050	Fixed Assets	Mar. 22, 2005
51.060	Handwritten Checks	June 23, 1994
51.070	Local Bid Preference	Nov. 12, 2003
51.080	Criteria for Bill Messages and Inserts by Others	April 1, 2000
51.090	Budget Amendments	Dec. 2, 2008
52.010	Payroll Distribution	Oct. 7, 1992
52.020	Overtime	Nov. 5, 1992
53.010	Reimbursable-Allowable Travel Expenses	Mar. 2006
54.010	Reserve Policy	Feb. 19, 2013
54.020	Write Off of Uncollectible Accounts Receivable	Sept. 7, 2017
54.030	Disclosure Policy and Procedure	July 18, 2016
54.040	Tax Exempt Bonds	Aug. 12, 2016
61.020	Internet Access and Electronic Mail (E-MAIL)	June 1, 1999
62.010	Cellular Telephones	Nov. 1998
62.020	Personal Use of Telephone	Aug. 12, 1992
62.030	Personal Use of Fax Machines	Nov. 1998
62.040	Coverage During Lunch Periods	Aug. 6, 1990
62.050	Requests for Telephone Changes	Dec. 1994
70.010	Department Furnished Uniforms	Jan. 1, 1999
80.010	Utilization of Water Department Vehicles	Dec. 11, 1997
80.020	Standardization of Water Department Colors & Department Decals	Nov. 1998
80.030	Vehicle Idling Policy	Feb. 18, 2009
80.040	Locking Water Department Vehicles	Feb. 1, 1994
90.010	Reserving the Board Room	June 1, 2006
90.020	Resignations-Retirements Board of Water Commissioners Resolutions	June 1, 2006
90.030	Regulation of Concentrated Waste Streams	July 6, 1999
90.040	Board of Water Commissioners Quorum and Attendance	June 1, 1993

90.050	Deposits Required for Board of Water Commissioners Conference Attendance	Apr. 23, 1991
90.060	Commendation by Board of Water Commissioners for Selfless & Heroic Acts	June 14, 2005
90.070	Expense Guidelines and Reimbursement Policy for Members of Legislative Bodies	Mar. 7, 2006
100.100	Newmark Groundwater Superfund Site Institutional Controls Implementation Policy	Sept. 2009

HESPERIA UNIFIED SCHOOL DISTRICT SEXUAL HARASSMENT POLICY AND PROCEDURES

BACKGROUND

The 2017-2018 Grand Jury received a complaint of several incidents involving student-on-student behavior termed “Slap Ass Friday” occurring on campuses in Hesperia Unified School District (HUSD). This practice is an unwanted and offensive student-on-student physical contact. After interviewing the complainant and reviewing HUSD’s policy and procedures on Sexual Harassment, Administrative Regulation (AR) 5145.7¹ and Board Policy (BP) 5145.7², the Grand Jury determined that there was sufficient information to warrant a further investigation. During the interview process, this behavior was defined as a sexual battery offense.

The primary focus was whether the District followed its own policies and procedures when complaints of sexual harassment or sexual battery were reported by students and/or parents. Another focus of this investigation was to determine if HUSD’s policies and procedures are sufficient.

The Grand Jury investigated under the jurisdiction of Penal Code §933.5. Two 2017/2018 Grand Jurors were recused from this investigation. They were not in the plenary meeting when information was originally provided. They received redacted minutes from all other meetings in which this investigation was discussed. They did not vote on acceptance of this report.

METHODOLOGY

The Grand Jury conducted interviews with HUSD elected officials, District officials, school officials, San Bernardino County Sheriff’s Department personnel, and parents of students. The Grand Jury reviewed Board Policies (BP), District Administrative Regulations (AR), the

¹ <http://hesperiausd.org>

² <http://hesperiausd.org>

California Penal Codes and California Education Codes. Additionally, the Grand Jury examined other San Bernardino County school districts' policies and procedures. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records; therefore, the Grand Jury was not authorized to review student records.

FACTS

A detective in the San Bernardino County Sheriff's Department, Crimes Against Children Unit, was interviewed and asked to review HUSD's AR5145.7 titled Sexual Harassment to determine if any of the types of conduct listed met the definition of battery and/or assault. The detective responded that number 7 (massaging, grabbing, fondling, stroking, or brushing the body), number 8 (touching an individual's body or clothes in a sexual way) and number 11 (sexual assault, or sexual battery, or sexual coercion) constitute battery and/or assault.

When the detective was asked if the actions of a student-on-student slap to the buttocks would constitute a sexual assault, the response was that it would be sexual battery. Sexual battery must involve law enforcement and be reported to San Bernardino County Children Family Services (CFS). The detective referenced California Penal Code §243.4³.

District representatives stated that training is provided by HUSD to District and school officials regarding sexual harassment twice a year. It includes refresher training and any new or changed laws. According to officials interviewed, it does not include sexual battery and/or assault. District officials define the act of sexual battery as "skin-to-skin" contact and proof of sexual arousal.

The Grand Jury learned in interviews with the District and school officials that security cameras are located at all school sites. The area of concern for the Grand Jury is the retention time of the recordings. District officials were questioned about the length of time video recordings from

³ <http://leginfo.legislature.ca.gov>

school surveillance cameras are retained and only one answered with certainty. All others did not know for sure; some took guesses. If there is a policy, no one knows about it. One District representative stated a policy may be “buried somewhere.”

HUSD Administrative Regulation 5145.7

Administrative Regulations are detailed directions to put policy into practice. They tell how, by whom, where, and when things are to be done.

The HUSD’s procedures for filing a sexual harassment complaint are included in AR 5145.7(b), School-Level Complaint Process/Grievance Procedures.

Initial Interview with Student: “...The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing on the District’s official complaint form.”

District officials stated that interviewing students is part of the investigative process. When interviewing an elected school official regarding the interview process, the elected official stated that the school officials would talk to the student and witnesses.

Parents interviewed stated that their child came home and told them that he/she was slapped on the buttocks by a student at school. The parents contacted the school, spoke to a school official, and were informed that staff was aware of that type of behavior on campus. The school official also advised that an announcement would be made over the loud speaker that this behavior wouldn’t be tolerated. The parents asked why they were not notified and the response was, “Well, you should have been.” According to the parents, their child was never asked to give a statement verbally or in writing.

Another parent interviewed stated that when he/she called the school and described what happened to his/her child, a school official used the phrase “kids being kids” to describe the inappropriate touching.

When interviewed, an elected official described a slapping incident as “kids being stupid.” One school official stated to the Grand Jury that interviews with students regarding sexual harassment were conducted by staff members of the same gender as the students. However, parents expressed their disapproval of the fact that their child was interviewed by a school official of the opposite gender. The parents stated their child was embarrassed and uncomfortable.

When incidents of sexual battery occur, the HUSD Police Department is involved. Currently, there is no female officer on the school police force. If the complainant is a female, only a male officer is available to talk with the student.

Official Complaint Form: “...and put his/her complaint in writing on the District’s official complaint form.” Neither the parents nor their children were offered the District’s Official Complaint Form according to interviews. They were shown the Official Complaint Form by the Grand Jury and indicated that they had never seen it.

Investigation Process: “The Principal or designee shall interview individuals who are relevant to the investigation including but not limited to...anyone who witnessed the reported sexual harassment...”.

During interviews of school officials, they stated that the investigative process would include interviews of witnesses to the incident and statements from other students.

In an interview with a parent, it was stated that his/her child had witnessed a slapping incident, but he/she was not interviewed by school officials. According to the parent, when the student requested to be interviewed, the request was denied without explanation. Another parent did not know of any witnesses being interviewed for an investigation in which his/her child experienced a slapping incident. The child told school officials that there were a number of students who observed the incident.

Interim Measures: “The Principal or designee shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes...”.

According to one parent interviewed, his/her child, was required to continue attending the same class as the other involved student. The child was offered a class change so that he/she would not be in the same class as the other involved student. The parent also stated that it was suggested that his/her child spend free periods in the school office rather than on the outdoors campus. The parent believed that his/her child was being punished by removing the child from the class and sitting in the office during lunch periods. As a result of this issue being raised by the parent, the other involved student was eventually removed from the class.

Written Report and Findings and Follow-Up: “No more than 30 days after receiving the complaint, the Principal... shall conclude the investigation and prepare a written report of his/her findings...”

Based upon Grand Jury interviews with the parents, none of them had received a report of the investigation.

District officials agree there should be a written report of investigations; however, due to privacy rights, the information within the report must be limited.

Appeal Process: “An appeal process will be afforded to the complainant should he or she disagree with the resolution of the complaint filed pursuant to this policy.” The Administrative Regulation (AR) further states that this report shall be presented to the student who complained, the person accused, and the parents/guardians among other recipients.

Although the AR includes an appeal process, since the parents did not receive a written copy of the report, they were not afforded their appeal rights as an option.

Board Policy 5145.7

Board Policies are principles and guidelines adopted by the Board in support of school system goals and guide administrative decisions.

Sexual Harassment Prevention: “District and school strategies shall focus on prevention of sexual harassment by providing age-appropriate training and information to students and staff, including, but not limited to, the District’s anti-harassment policy, what constitutes prohibited behavior, how to report incidents, and to whom such reports should be made.”

District officials told the Grand Jury that at the start of the school year, students are informed about the Student Handbook including the Sexual Harassment policy and procedures. One administrator called it “boot camp.” It is unknown if there is any additional training regarding inappropriate student-on-student behavior; however, parents advised the Grand Jury that a voicemail went out to parents more than a month after an incident occurred. The message recommended that parents talk with their children about inappropriate slapping/hitting, etc.

Intervention: “...As appropriate, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators...” Board Policy 5145.7(a).

The Grand Jury asked a district official what is meant by “as appropriate.” The official was asked whether contacting the parent of the complainant is optional. The district official’s response was, “Probably need to rewrite it.”

FINDINGS

F-1: HUSD has a narrower definition of sexual battery than law enforcement.

F-2: HUSD officials and staff have had sexual harassment training, but are not trained in the elements of sexual battery.

F-3: The Grand Jury interviews found inconsistencies regarding the retention of video recordings from surveillance cameras on campuses.

F-4: District officials' explanation of the complaint/grievance procedures differs from what parents told the Grand Jury they and their children experienced.

F-5: AR 5145.7 Investigative procedures have not been followed.

F-6: Students have been interviewed by school officials who are of the opposite gender.

F-7: Neither the complainants nor the parents were provided a copy of the investigative report in accordance with AR 5145.7, or advised of their appeal rights.

F-8: There is limited training for students regarding offensive student-on-student touching.

F-9: Board Policy 5145.7 (Intervention) needs to be rewritten as the phrase "as appropriate" indicates that contacting parents is optional instead of required.

RECOMMENDATIONS

18-4: Provide all District personnel with training on sexual harassment, sexual assault and sexual battery, defining the elements of each in accordance with Penal Code §243.4. Training should include a third party expert such as personnel from the Crimes Against Children Unit, San Bernardino County Sheriff's Department.

18-5: Follow a consistent policy regarding the use of campus surveillance cameras, the length of time recordings kept, and the location of stored recordings.

18-6: Develop a checklist of the steps to be taken when a complaint of sexual harassment, discrimination or bullying is received in order that all requirements of AR 5145.7(b) School-Level Complaint Process/Grievance Procedure are met.