

Administrative Regulation

PERSONNEL: GENERAL

Sexual Harassment

I. Sexual Harassment Defined

- A. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:
1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress.
 2. Submission to, or rejection of, the conduct is used as the basis of employment or academic decisions affecting the individual.
 3. The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive working or educational environment. Even if the conduct or language is not sexual in nature, harassment based on the victim's gender may create a sexually discriminatory working or learning environment.
 4. Submission to, or rejection of, the conduct is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.
- B. Sexual harassment also includes any act of retaliation against a student or employee for reporting violations of this policy or for participating in the investigation of a sexual harassment complaint.
- C. Sexual Harassment Examples:
1. Sexual harassment can occur in a variety of circumstances.
 - The victim or the harasser may be a woman or a man, a girl or a boy; the victim does not have to be of the opposite sex.
 - A student can be the victim of sexual harassment by another student, the victim's teacher, another teacher, a principal, a counselor, a parent volunteer coach, a custodian, an instructional aide, a school secretary, or any other agent or school district employee.

- An employee can be the victim of sexual harassment by the victim's classified or certificated supervisor, a supervisor in another area, a co-worker, a student, an agent of the school district or someone who is neither an employee nor a student.
 - The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
2. Sexual harassment can include, but is not limited to the following unwelcome conduct:
- Physical: Leering; winking; throwing kisses; sexual gestures; deliberate touching; pinching; patting; leaning over; intentional rubbing or brushing against another individual's body; grabbing; fondling; kissing; cornering a person, blocking a person's way, or other physical interference with normal movement; attempted or actual rape or sexual assault; sexual intercourse.
 - Verbal: Sexual demands; sexual propositions; sexual slurs; sexual jokes; sexual teasing; sexual remarks; sexual questions; sexual telephone calls; catcalls or whistles; derogatory comments; too-familiar remarks about an individual's body parts; repeated, unwanted requests or pressure for dates; requests for sexual activity; remarks or rumors about an individual's sexual activities; unwelcome compliments; telling about sexual fantasies.
 - Visual: Sexually explicit posters, graphics, cartoons, drawings, or objects; sexually suggestive looks, gestures, leers or gawking.
 - Written: Notes or letters of a sexual nature; displays of sexually explicit literature, posters, or poems.
3. Conduct prohibited by this policy need not be sexual in nature. Any conduct that is based on the victim's gender can constitute harassment. For example, referring to women or girls as "chicks," "broad," etc.; making statements about women or girls based on stereotypes; suggesting that women or girls should not hold certain positions because they are incapable of carrying out certain functions.
4. Sexual conduct between an adult school employee and an elementary school student is never considered consensual. This policy will never deem an elementary school student to have welcomed or consented to an adult employee's sexually harassing conduct.

II. Supervisors' and Managers' Responsibility

District supervisory and management employees must enforce the district's sexual harassment

prohibition and must promptly report all sexual harassment complaints they receive from students or employees. A supervisor's or manager's failure to report a sexual harassment complaint is grounds for discipline.

III. Confidentiality

The district will respect the confidentiality of the complainant and the individual(s) against whom the complaint is made as much as possible. The district will respect confidentiality within the limits of its legal obligations, including investigating sexual harassment allegations, and taking remedial and corrective action.

IV. Reporting Procedures

Any person who believes that a district student or employee has sexually harassed them or any person who knows or believes that they have knowledge of conduct that may constitute sexual harassment should report the alleged acts immediately.

A. Student Reports

The district encourages any adult who witnesses sexual harassment to intervene on the victim's behalf and immediately report the harassing conduct. The district does not, however, require any person to directly confront the harasser.

Any student who believes that they are a sexual harassment victim, or who knows of conduct that may constitute sexual harassment should report the alleged acts to a teacher, counselor, principal, or designated District Compliance Officer.

The report may be verbal or written. Using a formal reporting form is not required. If a student wants to use a form, one is available from the school office, school library, counseling office, and the District Compliance Officer.

Any teacher or counselor to whom alleged sexual harassment is reported shall immediately notify the school principal of the alleged acts, or if the complaint involves the principal, immediately notify the District Compliance Officer.

The principal shall immediately forward written reports to the District Compliance Officer. If the principal receives a verbal report, the principal shall immediately notify the District Compliance Officer and, as soon as possible, forward a written report to the District Compliance Officer. The report shall not be screened or investigated before it is forwarded to the District Compliance Officer. Failure to forward any sexual harassment report or complaint shall result in disciplinary action.

B. Employee Reports

The district encourages any employee who believes that they are a sexual harassment

victim to directly inform the harasser that the conduct is unwelcome and must stop. A co-worker or other employee who witnesses sexual harassment should either intervene on the victim's behalf or immediately report the harassing conduct. The district does not, however, require the employees or witnesses to confront the harasser.

An employee who believes they are a sexual harassment victim, or who knows of conduct that may constitute sexual harassment should report the alleged conduct to his or her immediate supervisor, or to any supervisor or manager, or to the District Compliance Officer.

The report may be verbal or written. Using a formal reporting form is not required, although one is available from the school office, the district personnel office, or the District Compliance Officer if the employee wants to use a written form.

A supervisory or management employee receiving a written sexual harassment complaint shall immediately forward it to the designated District Compliance Officer. If a supervisory or management employee receives a verbal complaint, they shall notify the District Compliance Officer immediately and, as soon as possible, forward a written report to the District Compliance Officer. The report shall not be screened or investigated before it is forwarded to the District Compliance Officer. Failure to forward any sexual harassment report or complaint shall result in disciplinary action.

C. Designation of "District Compliance Officer"

The Assistant Superintendent of Personnel is designated as the "District Compliance Officer" to receive sexual harassment reports or complaints. If the sexual harassment complaint involves the designated District Compliance Officer, the complaint shall be reported to the district Superintendent or the Superintendent's designee. If the complaint involves the Superintendent, the Superintendent's designee, or a Governing Board member, the Superintendent shall notify the Governing Board. The Board may choose to designate an independent third party to investigate the sexual harassment complaint.

V. Investigation

After receiving a sexual harassment report or complaint, the District Compliance Officer shall immediately authorize an investigation. The investigation may be conducted by district officials or by a third party designated by the district. At the investigation's conclusion, the investigator shall prepare a written report, which shall:

- describe the circumstances giving rise to the complaint;
- describe the complainant's allegations;
- describe the accused's response;

- summarize the testimony provided by other persons interviewed, including any witnesses the complainant or the accused identified;
- conclude whether persons interviewed are credible;
- describe any other factual information the investigator deems appropriate;
- report findings of fact and supporting evidence;
- conclude whether sexual harassment did or did not occur with respect to each allegation in the complaint; and
- recommend corrective action.

VI. District Action

After receiving the investigator's report, the Superintendent shall determine and implement an appropriate remedial and corrective response. The Superintendent shall report in writing the investigation's result and any proposed remedial and corrective action to the complainant.

If the sexual harassment complaint involved the Superintendent, the Governing Board shall determine and implement the appropriate remedial response, and report in writing the investigation's result and any proposed remedial action to the complainant.

Any district action taken in response to a determination that sexual harassment has occurred will be consistent with district policies and regulations, applicable collective bargaining agreements, and state and federal law.

VII. Reprisals and Retaliation Forbidden

The district will discipline any individual, student, or employee who retaliates against any person who: (1) reports alleged sexual harassment; or (2) assists or participates in an investigation or proceeding relating to a sexual harassment complaint. Retaliation includes all forms of intimidation, reprisal, or harassment.

VIII. Right to Alternative Complaint Procedures

The procedures contained in this policy are intended to supplement and not replace any applicable state and federal laws and regulations. Any individual may seek the remedies available under state and federal law by filing formal complaints with the following state and federal agencies:

Department of Fair Employment and Housing Headquarters
2014 T Street, Suite 210
Sacramento, California 95814

Equal Employment Opportunity Commission (EEOC)
96 North 3rd Street
San Jose, California 95112

VIII. Sexual Harassment as Child Abuse

In some circumstances, sexual harassment may also constitute child abuse or other criminal conduct. The district will comply with reporting requirements and other obligations under state law.

IX. Policy Distribution

A copy of this sexual harassment policy shall be displayed in prominent locations in the district's main administrative building and other work sites and school sites where notices regarding the district's rules, regulations, procedures, and standards of conduct are usually posted.

A copy of this policy shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable. A copy of this policy shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that a new employee is hired.

A copy of this policy on sexual harassment shall appear in all district publications that set forth district rules, regulations, procedures, and standards of conduct.

Legal Reference: Education Code Sections 212.5, 212.6, 48900.2
Title VII of the 1964 Civil Rights Act
Title IX of the 1972 Educational Amendments

Adopted: May 20, 1997

State/Local Fair Employment Practice Agencies (FEPA)

Department of Fair Employment and Housing (DFEH) – Communications Headquarters
2218 Kausen Drive, Suite 100
Elk Grove, California 95758
800-884-1684

DFEH District Offices

Bakersfield District Office
1001 Tower Way, Suite 250
Bakersfield, California 93309
661-395-2729

Fresno District Office
1320 East Shaw Avenue, Suite 150
Fresno, California 93710

Los Angeles District Office
611 West 6th Street, Suite 1500
Los Angeles, California 90017
213-439-6799

Oakland District Office
1515 Clay Street, Suite 701
Oakland, California 94612-2512
510-622-2941

Sacramento District Office
2000 "O" Street, Suite 120
Sacramento, California 95814
916-445-5523

San Diego District Office
1350 Front Street, Suite 3005
San Diego, California 92101
619-645-2681

San Francisco District Office
1515 Clay Street, Suite 701
Oakland, California 94612-2512
510-622-2941

San Jose District Office
111 North Market Street, Suite 810
San Jose, California 95113-1102
408-277-1277

Santa Ana District Office
2101 East 4th Street, Suite 255-B
Santa Ana, California 92705
714-558-4266

Equal Employment Opportunity Commission (EEOC) Offices

Fresno Local Office
1265 West Shaw Avenue, Suite 103
Fresno, California 93711
559-487-5793

San Diego Area Office
401 B Street, Suite 1550
San Diego, California 92101
619-557-7235

Los Angeles District Office
255 East Temple, 4th Floor
Los Angeles, California 90012
213-894-1121

San Francisco District Office
901 Market Streets, Suite 500
San Francisco, California 94103
415-356-5100

Oakland Local Office
1301 Clay Street, Suite 1170-N
Oakland, California 94612-5217
510-637-3230

San Jose Local Office
96 North 3rd Street, Suite 200
San Jose, California 95112
408-291-7352