

All Personnel

BP 4119.11 (a)

4219.11

SEXUAL HARASSMENT

4319.11

The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

(cf. 4030 – Nondiscrimination in Employment)

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 periodic training to all staff regarding the district’s sexual harassment policy, particularly the procedures for filing complaints and employees’ duty to use the district’s complaint procedures.

(cf. 4131, 4231, 4331 – Staff Development)

2. Publicizing and disseminating the district’s sexual harassment policy to staff.

(cf. 4112.9, 4212.9 4312.9 – Employee Notifications)

3. Ensuring prompt, thorough and fair investigation of complaints.

4. Taking timely and appropriate corrective/remedial actions. This may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

Any district employee or job applicant who feels that he/she is being sexually harassed, or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

(cf. 4031 – Complaints Concerning Discrimination in Employment)

Complaints of sexual harassment shall be filed in accordance with AR 4031 – Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

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

SEXUAL HARASSMENT (continued)

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

(cf. 4117.4 – Dismissal)

(cf. 4118 – 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

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

CODE OF REGULATIONS, TITLE 5

4900-4975 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

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

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

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

Juarez v. Ameritech Mobile Systems, (N.D. Ill.) 746 F.Supp. 798

Dornhecker v. Malibu Grand Prix Corp., (5th Cir.1987) 828 F.2d.307

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January 1999

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 of Civil Rights: <http://www.ed.gov/offices/OCR>

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Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the work or educational setting when: (Education Code 212.5; 5CCR 4916)

1. Submission to the conduct is made expressly or by implicitly a term or condition of the individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting him/her.
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's work performance or of creating an intimidating, hostile, or offensive work environment or of adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of employment or career development.
4. Submission to, or rejection of, the conduct by the Individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs or activities available at or through the education institution.

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor or any other employee, or a non employee, in the work or educational setting, including but are not limited to:

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, gestures or sexually explicit e-mails; 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.

Notifications

A copy of the Governing Board's policy and this administrative regulation shall:

1. Be displayed in a prominent location in the main administrative building or other area of the school where notices of district rules, regulations, procedures and standards of conduct are posted.

SEXUAL HARASSMENT (continued)

2. Be provided to 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 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 or district comprehensive rules, regulations, procedures and standards of conduct.

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing or a copy of district information sheets that contain, 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 the Fair Employment and Housing Department and Equal Employment Opportunity Commission.
6. Directions on how to contact the Fair Employment and Housing Department and Equal Employment Opportunity Commission.