

Sexual HarassmentProhibited Conduct

Within the educational environment, sexual harassment is unlawful and is prohibited between students and between employees and students. Within the work environment, sexual harassment is unlawful and is prohibited between supervisors and employees, between employees, and between employees and non-employees.

Duty to Report

Employees serving in supervisory or managerial positions who receive complaints or observe harassing conduct shall inform the Superintendent or the Coordinator of Personnel Services immediately. In order to maintain the most conducive work and educational environment, non-employees, students, and those employees not serving in supervisory or managerial positions, are encouraged to report incidents of sexual harassment, even when they are not directly involved.

Examples of Sexual Harassment

For the purposes of clarification, sexual harassment includes but is not limited to:

1. Making unsolicited written, verbal, physical and/or visual contact with sexual overtones. (Examples include but are not limited to: (a) suggestive or obscene letters, notes, e-mails, invitations; (b) derogatory comments, innuendos, slurs, jokes, epithets; (c) massaging, grabbing, fondling, touching, stroking or brushing the body or clothes in a sexual way; (d) assault, cornering, impeding or blocking movement; and (e) leering, gestures, display of sexually suggestive objects, pictures, cartoons or posters.)
2. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction is not considered sexual harassment.)
3. Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response. Within the work environment, some examples of reprisal would include either implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting a poor performance report will be prepared, or suggesting probation will be failed. Within the educational environment, some examples would include either implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.

4. Within the work environment, engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the career, salary, and/or work environment of another employee, job applicant or non-employee doing business with the Office of Education. Within the educational environment, engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.

5. Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Potential Disciplinary Action for Misconduct: Employees who act in violation of this policy and/or the law may be subject to “discipline including dismissal.” Such disciplinary action shall be in accordance with applicable policies, laws, collective bargaining agreements and/or personnel commission rules.

Complaints Regarding Sexual Harassment

Informal Resolution: Employees, students, or other individuals who feel aggrieved because of conduct that may constitute sexual harassment are encouraged, but not required, to directly inform the person engaged in such conduct that such conduct is offensive and must stop. An aggrieved individual is not required to complain first to his or her supervisor (in the case of an employee) or to his or her instructor (in the case of a student), if that supervisor, or instructor, is the individual who is harassing the employee or student.

Formal Complaints: If an employee, student or other individual has tried but is unable to communicate directly with the person whose conduct is offensive, or if direct communication has been unavailing, the aggrieved may file a complaint with the Coordinator of Personnel Services and/or the Superintendent.

Complaints should be in writing and submitted in a timely manner following the incident(s) of alleged misconduct. The complaint shall identify the offending person or persons; include reference to specific examples of offensive conduct; identify the remedy sought; and describe any informal efforts made to correct the situation.

The Coordinator of Personnel Services or other Superintendent-designated authorized officer shall have the primary responsibility to review the complaint and, as soon as reasonably possible after its receipt, should inform the person who has been accused of harassment about the allegations.

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The complaint shall be investigated thoroughly, promptly, and in a confidential manner. The investigation and written report shall be completed within 20 workdays unless extenuating circumstances make such a timeline impossible to meet. Additional action, such as disciplinary action if any is deemed appropriate and warranted, shall be made in an equally responsive manner.

Appeal: Decisions under these guidelines may be appealed to the Superintendent.

Notifications

A copy of the Policy and this Administrative Regulation shall:

1. Be displayed in a prominent local in the main administrative building and at each school site in a location where notices of Office of Education rules, regulations, procedures and standards of conduct are posted
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 school year, or whenever a new employee is hired
3. Appear in any Office of Education publication that sets for the Office's 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 (DFEH) or a copy of Office of Education information sheets that contain, at minimum, components on:

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 Office of Education'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 7287.8 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

Training

Every two years, all supervisory employees shall receive two hours of training and practical guidance on the Office of Education's sexual harassment policy, complaint procedures, applicable state and federal laws, remedies available to victims of sexual harassment, practical examples of harassment based on

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gender identity, gender expression, and sexual orientation, and the prevention of abusive conduct. The training shall be conducted by an instructor with knowledge and expertise in the prevention of harassment, discrimination and retaliation. An acceptable alternative for training would be through an approved online course.

New supervisors hired after July 1, 2005, shall receive training within six months of beginning their supervisory employment.

Additional Policies and Procedures: The Superintendent or designee shall adopt, and from time to time may revise, further procedures as may be necessary to implement this policy and provide for a means of enforcing this policy.

Relationship of Policy to Law: This policy is intended to supplement, and not replace, any applicable state and federal laws and regulations. Formal complaints under those laws and regulations shall be processed through the procedures established by applicable state and federal agencies.