

The Board of Trustees prohibits sexual harassment in the working environment of District employees or applicants by any person in any form.

According to Equal Employment Opportunity Commission guidelines, sexual harassment is an act of discrimination on the basis of sex within the meaning of Title VII of the Civil Rights Act of 1964, as amended. Sexual harassment is similarly construed within the meaning of Title IX of the Education Amendments of 1972 pertaining to academic environment. In accordance with Title VII and Title IX, the District defines sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status or progress, (2) submission to, or rejection of, such conduct by an 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 educational institution, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

Employees who permit or engage in such harassment may be subject to disciplinary action up to and including dismissal. Employees are personally liable for any harassment perpetrated by them. Any District employee who has a sexual relationship with any student is subject to disciplinary action, up to and including, dismissal.

Any employee or applicant for employment who feels that he/she or another individual in the district is being sexually harassed should immediately contact his/her supervisor, principal, Assistant Superintendent-Human Resources or the Assistant Superintendent-Administration in order to obtain procedures for reporting a complaint.

Any supervisor who receives a harassment complaint shall report complaints to the Assistant Superintendent-Human Resources, who will immediately log the complaint and shall ensure that the complaint is appropriately investigated. The Assistant Superintendent-Human Resources is the District's Title IX Officer and Sexual Harassment Officer. Any employee, who engages in, permits or fails to report sexual harassment shall be subject to disciplinary action, up to and including dismissal. In addition, criminal or civil charges may be brought against the alleged harasser; sexual harassment also may be considered a violation of law relating to child abuse.

The District prohibits retaliatory behavior against any complaint or any participant in the sexual harassment complaint process. Information related to a complaint of sexual harassment shall be kept confidential to the extent possible within legal constraints, and individuals involved in the investigation of such a complaint shall not discuss related information outside the investigation process.

The District encourages complainants to file their alleged complaints of sexual harassment with the District. However, complainants are not prohibited from submitting their complaint(s) directly to the Department of Fair Employment and Housing (DFEH). The address and telephone number of the local office of the DFEH is as follows:

Department of Fair Employment and Housing Commission
28 Civic Center Plaza, Room 538
Santa Ana, CA 92701-4010 (714) 558-4159

Legal Reference:

EDUCATION CODE

200-231.5	Prohibition of discrimination on the basis of sex:
212.5	Sexual harassment, defined
230	Particular practices prohibited
231.5	Sexual harassment policy
44932	Grounds for dismissal, certificated employees
45302	Causes for disciplinary action, classified employees
44010	Sex offenses

GOVERNMENT CODE

12900-12940 et seq.

PENAL CODE

261.5	Sex with a minor
288.5	Continuing sexual abuse of a minor
647.6	Annoying or molesting a child under 18
11165.1	Sexual abuse

UNITED STATES CODE, Annotated, TITLE 42

2000(d) & 2000(e) et seq. Title VII, Civil Rights Act of 1964 as amended

UNITED STATES CODE, Annotated, TITLE 20

Sections 1681 et seq. Title IX, of the Education Amendments Act of 1972

UNITED STATES SUPREME COURT CASES

Meritor Savings Bank v. Vinson, 447 U.S. 57 (1986)
Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)
Harris v. Forklift Systems, 510 U.S. 17 (1993)
Burlington Industries, Inc. v. Ellerth 524 U.S. 742 (1998)
Faragher v. City of Boca Raton 524 U.S. 775 (1998)
Oncale v. Sundowner Offshore Services, Inc. 523 U.S. 75 (1998)
Clark County School District v. Breeden, 532 U.S. ____, 121 S. Ct. 1508 (2001)

Board of Trustees

June 27, 2000

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1.0 PURPOSE

- 1.1 To set forth procedures to be followed when an employee makes a complaint alleging they have been sexually harassed by a District employee, a student, or any other person at their workplace or educational setting.
- 1.2 In order to provide a safe working environment for employees, definitions, notification requirements, responsibility and informal and formal process for the investigation or complaints are set forth below.

2.0 DEFINITION

- 2.1 Prohibited sexual harassment includes, but is not limited to; 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 when:
 - 2.2 Submission to the conduct is explicitly or implicitly made a term or condition of any individual's employment.
 - 2.3 Submission to or rejection of the conduct by an individual is used as the basis for an employment decision affecting the individual.
 - 2.4 The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment.
 - 2.5 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 educational institution. (Education Code Section 212.5)

- 2.6 Examples of sexual harassment, whether committed by a supervisor or any other employee, include:
- 2.6.1 Unwelcome leering, sexual flirtations or propositions.
 - 2.6.2 Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading deceptions.
 - 2.6.3 Graphic verbal comments about an individual's body, overly personal conversations, or pressure for sexual activity.
 - 2.6.4 Sexual jokes, notes, stories, drawings, pictures, gestures, graffiti, or sexually explicit e-mails.
 - 2.6.5 Spreading sexual rumors.
 - 2.6.6 Touching an individual's body or clothes in a sexual way, massaging, grabbing, fondling, stroking, or brushing the body.
 - 2.6.7 Cornering, blocking, leaning over, or impeding normal movements.
 - 2.6.8 Displaying sexually suggestive objects in the educational or work environment.
 - 2.6.9 Any act of retaliation against an individual who reports a violation of the District's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Each principal and supervisor has the responsibility of maintaining an educational and work environment free of sexual harassment. This responsibility includes discussing the District's sexual harassment policy with his/her students and/or employees and assuring them that they are not required to endure sexually insulting, degrading or exploitative treatment or any other form of sexual harassment.

3.0 NOTIFICATIONS

3.1 A copy of the District's policy on Harassment in Employment shall:

3.1.1 Be displayed in a prominent location near each school principal's office.

3.1.2 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.

3.1.3 Appear in any school or District publication that sets forth the school or District's comprehensive rules, regulations, procedures and standards of conduct. (Education Code section 231.5)

3.1.4 All employees shall receive either 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:

3.1.4.1 The illegality of sexual harassment.

3.1.4.2 The definition of sexual harassment under applicable state and federal law.

3.1.4.3 A description of sexual harassment, with examples.

3.1.4.4 The District's complaint process available to the employee.

3.1.4.5 The legal remedies and complaint process available through the Fair Employment and Housing Department and Commission.

3.1.4.6 Directions on how to contact the Fair Employment and Housing Department and commission. (Government Code section 12950)

4.0 RESPONSIBILITY

- 4.1 Any employee having knowledge of conduct by another employee, volunteer, student or individual in the school community which may constitute sexual harassment of employees is required to immediately report such conduct to any of the individual specified in this policy.
- 4.2 Employees are hereby placed on notice that if an employee engages in acts which the District determines to be acts of sexual harassment, such acts are outside of the scope and course of the employee's employment. Such conduct may result in the employee having to obtain his or her own legal counsel, and sexual harassment or unlawful discrimination may result in a money judgment against the employee personally.
- 4.3 Private, personal, consensual conduct may at some point become welcome. Any employee advised that a fellow employee now believes certain conduct to be unwelcome shall cease such conduct immediately. Any conduct of a sexual nature following such notice may be determined to be sexual harassment. Employees who participate in a consensual relationship, and who at some point wish to discontinue the relationship, should tell the other participant, either verbally or in writing, that the conduct is no longer consensual or welcome and therefore all such conduct must cease.
- 4.4 All employees shall cooperate with any investigation of an alleged act of sexual discrimination/harassment conducted by the District or by an appropriate state or federal agency. No employee of the District shall take any action to discourage a victim of harassment from reporting such an instance.

5.0 INFORMAL RESOLUTION PROCESS

5.1 To accommodate the unique nature of sexual harassment complaints, an informal process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this informal process are:

5.1.1 The following administrators or their designee will be available to receive sexual harassment complaints: All cabinet level positions including Assistant Superintendents and Directors.

5.2 These individuals or their designee will:

5.2.1 Promptly investigate all complaints of sexual harassment.

5.2.2 Obtain a factual written statement of the complaint for the Assistant Superintendent, Human Resources, and affected department head, or site administrator.

5.2.3 Counsel the employee and outline the options available. If an extensive investigation is necessary, the Assistant Superintendent, Human Resources, may refer to the complaint to an outside investigator for further investigation.

5.2.4 Assist with the follow-up investigation interviewing the accused, witnesses, other employees, students or supervisor(s), as appropriate, and make recommendations on the disposition of the complaint.

5.2.5 Information gathered will be forwarded to the Assistant Superintendent, Human Resources.

- 5.3 To determine the severity of the harassment, the Assistant Superintendent, Human Resources, may take into consideration:
 - 5.3.1 Whether the conduct was verbal or physical, or both;
 - 5.3.2 How frequently it occurred;
 - 5.3.3 Whether the conduct was hostile and patently offensive;
 - 5.3.4 Whether the alleged harasser was a co-worker or a supervisor;
 - 5.3.5 Whether others joined in perpetuating the harassment; and,
 - 5.3.6 Whether the harassment was directed at more than one individual.
 - 5.4 The individual or designee shall write a report of his/her findings, decision, and reasons for the decisions. The individual or designee shall give the Assistant Superintendent, Human Resources, or designee a written report of the complaint and investigation. If he/she verifies that sexual harassment occurred, this report shall describe the actions he/she took to end the harassment, address the effects of the harassment on the person harassed, and prevent retaliation or further harassment.
 - 5.5 An effort will be made to protect the privacy of the parties involved in a complaint. Files which pertain to complaints handled under the informal process shall be kept confidential within legal constraints and will not be made available to the general public.
- 6.0 FORMAL RESOLUTION PROCESS
- 6.1 If the complaint is not resolved to the satisfaction of the individual in the informal process, the following formal procedures are available:
 - 6.1.1 The complaint shall be reduced to writing and sent to the Assistant Superintendent, Human Resources, within 10 working days of the completion of the informal process.

- 6.1.2 The Assistant Superintendent, Human Resources, or designee shall investigate the complaint and respond within 10 working days after receipt of the complaint. If a more extensive investigation is necessary, the District may refer the complaint to an outside investigator, who shall serve as a fact finder.
- 6.1.3 Time limits may be extended by mutual agreement of the individuals and the person to whom the complaint is addressed at the respective level(s).
- 6.1.4 No retaliation of any kind will occur because an employee has made a sexual harassment complaint.
- 6.1.5 The Assistant Superintendent, Human Resources, shall then take action deemed appropriate to resolve the situation including, but not limited to, discipline, transfer, training or other remedial measures.

7.0 APPEAL PROCESS

- 7.1 If the employee is dissatisfied with the decision, they may appeal to the Governing board within 15 working days after receipt of the decision.
- 7.2 The Governing board shall review the written complaint, all documentation pertaining to the sexual harassment allegations(s) and the appropriateness of the decision.
- 7.3 The Governing Board, in its discretion, may request additional information. The Governing Board shall issue a written decision within 45 days of request of the appeal. The decision of the Governing Board shall be final.
- 7.4 The Assistant Superintendent, Human Resources, or designee will inform the employee and the perpetrator of the Governing Board's decision.

Board of Trustees
March 7, 2002