

Students

SEXUAL HARASSMENT

As defined by Education Code Section 212.5, “Sexual harassment” means unwelcome sexual conduct including 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 a condition of an individual’s employment, academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual 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 work or educational environment.
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 educational instruction.”

Sexual harassment may occur as a pattern of degrading sexual speech or actions ranging from verbal or physical annoyances or distractions to deliberate intimidations and frank threats or sexual demands. Examples of conduct which are inappropriate in the academic environment and which may also constitute sexual harassment include but are not limited to:

1. Unwelcome sexual flirtations or propositions. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction, among peers, is not considered sexual harassment.)
2. Verbal abuse of a sexual nature.
3. Graphic verbal comments about an individual’s body, sexuality, or sexual conduct.
4. Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, touching impeding or blocking movement, leering, gestures, display of sexually suggestive objects or pictures, or cartoons, or use of sexually degrading words to describe an individual.
5. Display of sexually suggestive objects or pictures in the educational environment which are not part of the curriculum or which are offered outside of the classroom out of the context of the curriculum.

Any expression of sexual interest between adults and students, regardless of reciprocity is considered inappropriate and shall be subject to discipline under applicable state law.

Confidentiality

A complaint and the results of the investigation shall be confidential to the extent reasonably possible under the investigation process. The complainant will be informed of this by the administrator receiving and/or investigating the complaint. Witnesses and those interviewed shall be informed of the confidential nature of the issues and the investigation. The alleged harasser will also be informed as to the confidential nature of the procedure. All parties shall be informed that it will be a violation of this policy to disclose the complaint or the nature of the investigation to others and that anyone violating confidentiality by disclosing the nature of the allegation or the investigation to others shall be subject to disciplinary action.

Retaliation

The initiation of a complaint of sexual harassment, will not cause any reflection on the complainant or witnesses nor will it affect such persons' future business dealings with the District, his or her employment, compensation or work assignments, or, in the case of students, grades, class section or other matters pertaining to his or her status as a student of any District program. It shall be a violation of this policy to engage in such retaliation. An allegation of retaliation shall be considered as a separate incident, shall be investigated, and shall be subject to disciplinary action as defined in this policy.

Complaint Procedures

A. Informal Resolution

Students who feel aggrieved because of conduct that may constitute sexual harassment are encouraged, but not required, directly to inform the person engaging in such conduct that such conduct is offensive and must stop.

B. Formal complaints

If an aggrieved student is unable to communicate directly with the person whose conduct is offensive, or if direct communication has been unavailing, the aggrieved student may file a complaint with the site principal or designee. If the complaint involves the Principal or Assistant Principal, the student shall communicate the complaint to the Deputy Superintendent.

Administrative Review and Procedures

A. Complaints – General Provisions

1. A principal or assistant principal who receives a verbal complaint of sexual harassment shall provide the student with a copy of the District's sexual harassment policy and procedures. Any non-administrative staff member who receives a verbal complaint of sexual harassment shall promptly inform the school site principal of the complaint.

2. Filing

Complaints shall be filed with the site principal or designee as set forth above. Verbal complaints shall be committed to writing by the principal/designee receiving the complaint. If it appears that the student is unable to prepare a written report without assistance, the principal or designee shall assist the student in the preparation of the complaint.

In the case of the minor, the principal or designee should consider whether a child abuse report should be completed.

3. Contents of Complaint

The complaint shall identify the offending person or persons; include reference to specific examples of offensive conduct, identify the remedy sought; and describe the informal efforts, if any, made to correct the situation.

4. Review and Disclosure of Complaint

The Principal or designee shall review the complaint and, as soon as reasonably possible after receipt of the complaint, the individual who is accused of sexual harassment should be informed of the contents of the communication.

If the individual accused of sexual harassment is a district staff member or a third party doing business with the district, the Principal or designee shall refer the complaint to the Deputy Superintendent who will conduct an investigation pursuant to Board Policies 4119.11 and 4219.11.

5. Time Limits

A complaint shall be filed as soon as reasonably possible after the conduct in question has arisen.

6. Investigation

As soon as the Principal learns of a complaint, he/she shall investigate the complaint thoroughly, promptly and in a confidential manner.

The person conducting the investigation shall speak to all individuals reasonably believed to have relevant information, including, but not limited to, the student and the alleged offender, any witnesses to the conduct, and other victims of similar conduct whom the investigator reasonably believes may exist.

The investigation shall be conducted discreetly, maintaining the confidentiality of the student and the alleged offender insofar as

confidentiality is consistent with a thorough investigation and appropriate disposition of the matter. The person conducting the investigation shall advise all individuals whom he/she contacts in connection with the investigation of the confidential nature of the complaint and the investigation.

The investigation and written report shall be completed as soon as possible and shall be provided to the complainant and the alleged offender.

Any student report of assault and/or physical battery that is gender based or sexual in nature shall be reported to the police for investigation.

B. Corrective Action

Upon completion of the investigation of the complaint the Principal shall determine whether the harassment occurred and what corrective action is appropriate. Corrective action may include counseling, warning, or the initiation of disciplinary procedures against the student. The determination shall be in writing and shall be issued to the student and the alleged offender within 20 school days from the date of the original formal complaint. A pupil in grades 4 through 12 may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined above.

C. Appeal Procedures

All determinations made under this procedure may be appealed by student or the alleged offender to the Deputy Superintendent. The appeal shall be filed in writing with the Deputy Superintendent within 10 school days of issuance of the determination in Section B above. The Deputy Superintendent shall issue a decision, which is final, within 15 school days.

Notification

All students will be notified annually of this policy and of the process through which complaints of sexual harassment will be handled, as well as the potential consequences of sexual harassment.

Administrative Regulations

The Superintendent 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. Such further procedures may include the following: posting and other means of distributing this policy; a process under which complaints of sexual harassment will be handled; and an explanation of possible civil proceedings and potential legal consequences of sexual harassment. The Superintendent may initiate training and education programs to enable all persons, and in particular, supervisors to better understand the problem of sexual harassment.

In addition, the Superintendent shall designate appropriate employees to enforce or administer this policy within the District.

Filing Complaints with State and Federal Agencies

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.

Civil law remedies may also be available to persons filing complaints under this procedure. Anyone desiring to pursue civil law remedies should consider consulting an attorney and/or sources of assistance including:

Office for Civil Rights
San Francisco Office
50 Beale Street, Suite 7200
San Francisco, CA 94105
Telephone: (415) 486-5555
Fax: (415) 486-5570

The Sonoma County Lawyer Referral Service (707) 546-5297 may be able to provide the names of attorneys who practice in the area.

Special Assistance

It is expected that questions may arise concerning the interpretation of the prohibition against sexual harassment, the methods and procedures to be followed in the investigation of complaints, and the appropriateness of specific solutions in disposition of complaints. For assistance in these matters, an aggrieved person may contact the Deputy Superintendent.

Regulation Adopted: May 4, 1993
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COTATI-ROHNERT PARK
UNIFIED SCHOOL DISTRICT