

**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.

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 in order to avoid harm.
2. Publicizing and disseminating the district's sexual harassment policy to staff.
3. Ensuring prompt, thorough and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial actions after completion of investigation. 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 has been 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 contact his/her supervisor, the principal, district administrator or Superintendent to obtain procedures for filing a complaint. 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)

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.

*Legal Reference: (see next page)*

## SEXUAL HARASSMENT (continued)

### *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 5

4900-4965 *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

*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

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

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Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors or other unwanted 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; 5 CCR 4916)

1. Submission to the conduct is made expressly or implicitly a term or condition of the individual's employment
2. Submission to or rejection of such conduct by the 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; creating an intimidating, hostile or offensive work environment; or 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 other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs or activities available at or through the district

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor or any other employee, include but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversations or pressure for sexual activity
4. Sexual jokes, stories, drawings, pictures, graffiti, gestures or sexually explicit e-mails
5. Spreading sexual rumors
6. Massaging, grabbing, fondling, stroking or brushing the body
7. Touching an individual's body or clothes in a sexual way
8. Cornering, blocking, leaning over or impeding normal movements
9. Displaying sexually suggestive objects or using sexual computer screen savers

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**SEXUAL HARASSMENT** (continued)

10. 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

**Notifications**

A copy of the Governing Board's policy and this administrative regulation shall: (Education Code 231.5)

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
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. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct