

Fremont Union HSD

Board Policy

BP 4119.11, 4219.11, 4319.11 Personnel

Sexual Harassment in Employment

The Board of Trustees prohibits sexual harassment of district employees, interns, volunteers 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)

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 sex, 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, or a non-employee, in the work or educational setting, 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
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

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 training to employees in accordance with law and administrative regulation;
2. Publicizing and disseminating the district's sexual harassment policy to staff;
3. Ensuring prompt, thorough, and fair investigation of complaints;

(cf. 4112.9/4121.9/4312.9 - Employee notification)

4. Taking timely and appropriate corrective/remedial action(s), which 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, a district administrator or the Superintendent to obtain procedures for filing a complaint.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Any district employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment, 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, especially:

12940 Prohibited discrimination

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

7288.0 Sexual harassment training and education

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

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

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 for Civil Rights:
<http://www.ed.gov/about/offices/list/ocr/index.html>

FREMONT UNION HIGH SCHOOL DISTRICT

approved: February 4, 2004 Sunnyvale, California

revised: March 6, 2007

revised: September 15, 2009

revised: January 9, 2018