

## SEXUAL HARASSMENT

### A. Purpose and Scope

To provide guidance and direction for all District employees regarding harassment, including sexual harassment.

### B. General - Definition

Sexual harassment is a violation of the Board's rules of conduct. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- \* Submission to the conduct is made either an explicit or implicit condition of employment or academic status or progress;
- \* Submission to or rejection of the conduct is used as the basis for any employment or academic decision affecting the individual employee or student; or
- \* The conduct has the purpose or effect of unreasonably interfering with an employee or student's work or academic performance or creating an intimidating, hostile or offensive work or academic environment.

Sexual harassment includes conduct based on sex, whether directed toward a person of the opposite or same sex, and also may include, but is not limited to, the following:

- \* Repeated leering, sexual flirtations, or propositions.
- \* Suggestive or obscene letters, notes, or invitations
- \* Slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions.
- \* Sexual jokes, stories, drawings, pictures or gestures.
- \* Spreading sexual rumors.
- \* Touching an individual's body or clothes in a sexual way.
- \* Attempts to pull down pants or gym shorts or flip up skirts.
- \* Impeding or blocking normal movements.
- \* Displaying sexually suggestive objects.
- \* Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction is not considered harassment.)

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- \* Implying or withholding support, based on sex, for an appointment, promotion, or change of assignment, suggesting a poor performance report will be prepared, or suggesting probation or other discipline will be used. Within the academic environment, implying or withholding grades earned or deserved, suggesting a poor performance evaluation will be prepared, or suggesting a scholarship or college recommendation will be denied.
- \* Coercive sexual behavior used to control, influence, or affect the career, salary, and/or work environment of another employee. Within the academic environment, engaging in coercive sexual behavior to control, influence, or affect the academic opportunities, grades, and/or learning environment of a student.
- \* Offering favors or academic or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations in exchange for sexual favors.

Where no tangible employment or academic action has occurred, this conduct can be unlawful only if it is both unwelcome and either severe or pervasive. Nonetheless, the Board discourages any such conduct in the District, regardless of the circumstances.

In determining whether alleged conduct constitutes harassment, the totality of the circumstances, the nature of the harassment, and the context in which the alleged incidents occurred will be investigated. The Associate Superintendent for Human Resources or designee has the responsibility of investigating and resolving complaints of harassment of employees. The Director of Student Services or designee, in conjunction with school principals, has the responsibility of investigating and resolving complaints of harassment of students.

**C. Forms Used and Additional References**

None

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### D. Procedures

Everyone at the District is responsible for assuring that the work and academic environment is free from prohibited harassment and is expected to avoid any behavior or conduct that could reasonably be interpreted as prohibited harassment.

#### General Procedures - Students

Any student who feels he or she is being sexually harassed should immediately report such conduct to his or her teacher, the principal, or any other school administrator, without fear of reprisal. The student need not first report the harassment to his or her teacher, especially if the student believes the teacher engaged in or knowingly tolerated any harassment of the student. The student may make this report alone or with his or her parent/guardian.

An employee who receives a report of sexual harassment of a student or who witnesses the sexual harassment of a student shall immediately report the harassment to the Associate Superintendent for Human Resources (if alleged harassment is by an employee) or the principal or principal's designee (if the alleged harassment is by another student). Administrators, upon receiving a report of sexual harassment from a student, shall provide the student with a copy of the sexual harassment policy as well as the Administrative Regulation which contains procedures for filing complaints regarding sexual harassment.

Each complaint of sexual harassment shall be promptly investigated in a way that attempts to respect the privacy of all parties concerned. If the student requests that his or her name not be disclosed to the alleged harasser, an informal investigation of the allegations shall be conducted to the extent possible without disclosing the complainant's name. In order to file a formal complaint of sexual harassment, however, the student must be willing to disclose his or her name to the alleged harasser.

A student who feels he or she is being sexually harassed by his or her teacher may request to be transferred out of the teacher's class. The District will attempt to accommodate such requests to the extent practicable.

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General Procedures - Employees

Any employee who feels he or she has been sexually harassed should immediately report such conduct to his or her supervisor, the Associate Superintendent for Human Resources, or any other member of the Administration, without fear of reprisal. The employee need not first report the harassment to his or her supervisor, especially if the employee believes the supervisor engaged in or knowingly tolerated any harassment of the employee.

Any supervisor or administrator who receives a report of sexual harassment shall immediately notify the Superintendent or the Associate Superintendent for Human Resources. Upon receiving a report of sexual harassment from an employee, the District shall provide the employee with a copy of this sexual harassment policy as well as the Administrative Regulation which contains procedures for filing complaints regarding sexual harassment. A copy of the sexual harassment policy as well as the Administrative Regulation which contains procedures for filing complaints regarding sexual harassment is available to any employee upon request.

Each complaint of sexual harassment shall be promptly investigated in a way that attempts to respect the privacy of all parties concerned.

General Procedures - Any Other Persons

Any person who alleges sexual harassment by any employee or student in the District may file a complaint under the complaint procedures contained in Administrative Regulation 4119.11; 4219.11; and 5145.8.

Formal Complaint Procedures

The Board designates the following compliance officers to receive and investigate complaints and ensure compliance with law:

Superintendent	Associate Superintendent for Human Resources
1875 W. Lowell Ave.	1875 W. Lowell Ave.
830-3200 ext. 1004	830-3260 ext. 1304

Director of Student Services  
1875 W. Lowell Ave.  
830-3284 ext. 1601



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It is desirable that complaints of sexual harassment be resolved in a prompt and appropriate manner. If possible, such complaints should be resolved in an informal manner. If the complaint cannot be resolved informally, the following procedures shall be followed for filing a formal complaint of sexual harassment.

### Step 1: Filing of Complaint

Any individual, public agency or organization may file a written complaint of alleged noncompliance.

The complaint shall be presented to the Superintendent or designee, who will then give it to the appropriate compliance officer. The Superintendent or designee will maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints of sexual harassment must be initiated, in writing within sixty (60) calendar days of the date the alleged violation occurred, or the date the complainant first obtained knowledge of the facts of the alleged violation.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other disabilities, District shall help him/her to file the complaint.

### Step 2: Investigation of Complaint

Within sixty (60) school days from receipt of the complaint, excluding summer session, when the alleged violation occurred during the regular school year, the Superintendent or designee shall complete the investigation of the complaint. This time period may be extended by written agreement of the complainant.

### Step 3: Response

Within sixty (60) days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the District's investigation and decision, as described in Step 4 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within fifteen (15) calendar days, file his/her complaint, in writing, with the Board. The Board may consider the matter at its next regular Board meeting or at a special Board meeting.

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The Board may decide not to hear the complaint, in which case the compliance officer's decision is final. If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within seven (7) calendar days or within the time period that has been specified in a written agreement with the complainant.

### Step 4: Final Written Decision

The report of the District's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the District will arrange a meeting at which a community member will interpret it for the complainant.

This report shall include:

- \* The findings and disposition of the complaint.
- \* Notice of the complainant's right to appeal the decision to the California Department of Education, and procedures to be followed for initiating such an appeal.

If an employee or student is disciplined as a result of the complaint, this report shall simply state that appropriate action was taken and that the employee or student was informed of the District's sexual harassment policy. The report shall not give any further information as to the nature of the corrective or disciplinary action. However, when a student is expelled as a result of a substantiated charge of sexual harassment, the expulsion record shall be a nonprivileged, discloseable public record.

If dissatisfied with the District's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the District's decision. For good cause, the Superintendent may grant an extension for filing appeals.

When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the District's decision and must include a copy of the locally filed complaint and the District's decision.

## SEXUAL HARASSMENT POLICY

### Corrective Action

A substantiated complaint of sexual harassment may subject the offending employee or student to corrective action, up to and including suspension and discharge/expulsion. Such corrective action shall be consistent with the California Education Code and any collective bargaining agreement or student discipline code, if applicable.

In the event of harassment by an individual who is not an employee or student of the District, the District will take whatever corrective action is reasonable and appropriate under the circumstances.

Even if the reported conduct is not considered sexual harassment under this policy, it may be in violation of other rules and standards of conduct of the District. The District may discipline an employee or student for any inappropriate conduct discovered in investigating reports made under this policy, regardless of whether the conduct amounts to a violation of law or even a violation of this policy.

Supervisors may be held personally liable under the law for acts of harassment.

### Retaliation and Confidentiality

The District forbids retaliation against anyone for reporting harassment, filing a complaint pursuant to this policy, assisting in making a harassment complaint, or cooperating in a harassment investigation. Anyone experiencing or witnessing any conduct they believe to be retaliatory are to immediately follow the procedures outlined above. In an investigation and in imposing any discipline, the District will attempt to preserve confidentiality to the extent the circumstances permit.

### Notification - Employees

A copy of the sexual harassment policy and Administrative Regulation shall be displayed in a prominent location in the main administrative building located at 1875 W. Lowell Ave., Tracy, CA and in a prominent location near each school principal's office.



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Notice of the sexual harassment policy and the Administrative Regulation which contains the complaint procedures will be distributed to all employees of the District at the beginning of the first quarter or semester of the school year, and to any new employee at the time that the new employee is hired. A copy of the sexual harassment policy and Administrative Regulation shall also appear in any publication of the District that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

All employees additionally shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing ("DFEH") that includes information on sexual harassment, including the legal remedies and complaint process available through the DFEH and directions on how to contact this agency. A notice advising employees of the DFEH's requirements, including the prohibition against unlawful harassment based on sex, shall be posted at the main administrative building. The address and telephone number of the DFEH are as follows:

Department of Fair Employment and Housing  
2000 O Street, Suite 120  
Sacramento, CA 95814  
(916) 445-9918

Federal agencies enforcing the prohibition of sexual harassment are the Equal Employment and Opportunity Commission ("EEOC") and the Office of Civil Rights ("OCR"). The addresses and telephone number of these agencies are as follows.

Office of Civil Rights  
Old Federal Building  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102

Equal Employment Opportunity Commission  
1265 West Shaw Avenue, Room 103  
Fresno, CA 93711

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Notification - Students

A copy of the sexual harassment policy and Administrative Regulation shall be displayed in a prominent location in the main administrative building located at 1875 W. Lowell Ave., Tracy, CA and in a prominent location near each school principal's office.

Notice of the sexual harassment policy and Administrative Regulation which contain the complaint procedures will be sent to all students and parents or guardians upon enrollment and annually thereafter. A copy of the sexual harassment and Administrative Regulation shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable. Teachers shall discuss this policy with their students in age-appropriate ways and should assure them that they need not endure any form of sexual harassment.

Students may also file a separate claim of sexual harassment with the Office of Civil Rights (OCR). The address and telephone number of the OCR is listed under the notifications section for employees.

**E. Reports Required**

Investigation report regarding allegations of harassment.

**F. Record Retention**

Personnel file when appropriate.

**G. Responsible Administrative Units**

Human Resources

Student Services

**H. Approved By**

Associate Superintendent for Human Resources

Director of Student Services

Regulation Adopted:  
EL BD: 6/1/93 HS BD: 6/22/93

Regulation Revised Joint Board: 2/25/97  
TUSD: 8/24/99