

**CLASSIFICATION: All Personnel**

**ADOPTED: 5/13/92**

**REVISED: 9/20/00**

**SUBJECT: Sexual Harassment/Anti-Fraternization**

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Sexual harassment of or by any employee or applicant shall not be tolerated. The County Board of Education and the County Superintendent of Schools consider sexual harassment to be a major offense which will result in disciplinary action up to and including dismissal of the offending individual and may lead to personal legal and financial liability. This policy also applies to vendors or other third parties who have interactions with the County Office of Education.

Pursuant to Education Code section 212.5, 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 constitute sexual harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, status, or promotion.
2. Submission to or rejection of the conduct is used as the basis for an employment or academic decision affecting the harassed individual.
3. The harassment substantially interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive work or educational environment.
4. Submission to, or rejecting of, the conduct is the basis for any decision affecting an individual regarding benefits and services, honors, programs, or other available activities at or through the work or educational setting.

Forms of sexual harassment include but are not limited to the following:

1. Verbal Harassment: Derogatory comments, jokes, or slurs of a sexual nature, deprecating sexual remarks, sexually degrading words used to describe an individual, or unwelcome sexual advances or propositions.
2. Physical Harassment: Offensive or unwelcome touching, or impeding or blocking movement.

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3. Visual Harassment: Derogatory or offensive posters, cards, cartoons, graffiti, drawings, e-mail, pictures, calendars, or gestures of a sexual nature.
4. Sexual Favors: Unwelcome sexual advances, requests for sexual favors, offering employment in exchange for sexual favors, and other verbal or physical conduct of a sexual nature.

The illustrations stated above are not to be construed as an all-inclusive list of prohibited acts under this policy. Sexual harassment also includes same sex behavior such as male to male or female to female harassment.

A written record of each action taken regarding an employee who is determined to have engaged in prohibited conduct pursuant to the policy and complaint procedure will be placed in the offending employee's personnel file, provided, in accordance with Education Code section 44031, the report shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee also shall have the right to enter, and have attached to any derogatory statement to be placed in the personnel file, his/her own comments thereon. Review of the report by the offending employee shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction. The record to be placed in the personnel file will reflect the conduct, the nature, scope, and findings of the investigation, and the warning given or other discipline imposed.

An individual who feels that he/she is being or has been harassed should immediately report such incident to his/her immediate supervisor, Director, Human Resources, or his/her designee. An applicant for employment who feels that he/she is being or has been harassed should immediately report such incident to the Director, Human Resources, or his/her designee. Human Resources shall be informed of all such complaints and will assist in resolving these complaints in a thorough and confidential manner. There will be no retaliation against an individual for making a complaint of sexual harassment.

Complaints will be processed as outlined in Administrative Regulation No. 4003.1 Complaint Procedure, Employment Discrimination and Sexual Harassment. Complaints involving sexual harassment shall not be subject to any complaint procedure requirement that would require the complainant to resolve the complaint directly with the alleged offending person.

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Any complaint of alleged sexual harassment by an employee against the County Superintendent of Schools shall be submitted either orally or in writing to the employee's Division Assistant Superintendent. Any complaint of alleged sexual harassment by an applicant against the County Superintendent of Schools shall be submitted either orally or in writing to the Assistant Superintendent of Human Resources. If the complaint submitted to the Division Assistant Superintendent is in writing, he/she will immediately transmit the complaint to the Board President who will refer the matter to the Board's legal counsel for review and resolution. The findings of the Board's legal counsel shall be presented to the full Board in closed session.

Individuals who believe they have been harassed may contact the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment & Housing.

#### ANTI-FRATERNIZATION

As part of the sexual harassment policy, the County Board of Education and County Superintendent of Schools encourage supervisors not to be involved in a sexual relationship with a County Office of Education employee whom they directly supervise. Such power-differentiated relationships can lead to sexual harassment in the workplace (or the appearance of harassment) and can adversely affect morale, operations, and productivity because of favoritism, bias, or unfair treatment (or the appearance of favoritism, bias, or unfair treatment) by a party to it or by a third party who may experience or perceive to be the victim of unfair treatment because of a sexual relationship between a supervisor and his/her direct supervisee.

Those who directly supervise or directly evaluate the work of others must base their decision on the merits of each situation. There are concerns in any sexual relationship between individuals in inherently unequal positions (such as supervisor/employee). Such relationships may be less consensual than the individual believes whose position confers power over the employee. The relationship may be perceived in different ways by each of the parties to it.

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This policy is not intended to discourage friendship or social activities among employees. This policy applies solely to supervisors' sexual involvement with employees whom they directly supervise.

To encourage compliance with this policy, a supervisor or employee involved in a power-differentiated relationship may discuss the situation with the Director, Human Resources, or his/her designee. The Director, Human Resources, will take appropriate personnel actions based on the particular situation. Supervisors who have a sexual relationship with an employee whom they directly supervise shall not have any influence over the employee's promotions, raises, or other benefits or terms of employment, except to the extent such influence is directed at employees as a group, within the accepted confines of negotiations with an employee organization. The supervisor shall disqualify him/herself from any matter that improperly influences (or gives the appearance of influencing) the terms and conditions of the individual employee's employment.

The County Superintendent of Schools shall ensure that the San Diego County Office of Education employees are made aware of this policy.

**Administrative Regulation No.:** 4003.1

**Derivation:** Former Board Policy No. 4350 (Originally Adopted 5/10/95). Amended and Renumbered 4004, 5/10/95. Amended 12/10/97. Amended and Renamed Sexual Harassment/Anti-Fraternization, 9/20/00.

**Legal Reference:** Civil Code  
51.9  
Education Code  
212.5, 220 - 231.5, 44031  
Government Code  
11135, 12900 - 12996  
Federal Legislation  
Civil Rights Act of 1964, Title VII  
Equal Pay Act of 1963  
Title IX, Educational Amendments of 1972, as amended by the Civil Rights Restoration Act of 1987

**Additional Resources**

U.S. Equal Employment Opportunity Commission, <[www.eeoc.gov](http://www.eeoc.gov)>  
California Department of Fair Employment & Housing, <[www.dfeh.ca.gov](http://www.dfeh.ca.gov)>