

Annual Notifications for Classified Staff

Sexual Harassment

The Board of Education 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 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 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
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

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (5 CCR 4964)

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 report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

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.

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.

0410 - Nondiscrimination in District Programs and Activities

4030 - Nondiscrimination in Employment

4112.9/4212.9/4312.9 - Employee Notifications

4031 - Complaints Concerning Discrimination in Employment

4117.4 - Dismissal

4118 - Suspension/Disciplinary Action

4218 - Dismissal/Suspension/Disciplinary Action

Legal Reference:

EDUCATION CODE

Sexual Harassment

Definitions

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 explicitly 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 having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.
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, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

Prohibited sexual harassment may also include 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.

Training

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

The district's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing

supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1; 2 CCR 7288.0)

In addition, the Superintendent or designee shall ensure that all employees receive periodic training regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.

Notifications

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

1. Be displayed in a prominent location in the main administrative building, district office, 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 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.

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law
3. A description of sexual harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Regulation VISTA UNIFIED SCHOOL DISTRICT

approved: November 18, 2010 Vista, California

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>

Policy VISTA UNIFIED SCHOOL DISTRICT

adopted: December 9, 2010 Vista, California

VISTA UNIFIED SCHOOL DISTRICT

ADMINISTRATIVE REGULATION NO. 4203

CLASSIFIED PERSONNEL

RULES OF CONDUCT

The Governing Board expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the district's educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

EMPLOYEE CONDUCT

1. Each employee is required to perform all listed duties and responsibilities contained in applicable Board Policies, the applicable job description and applicable law.
2. Each employee shall follow all reasonable directives from the employee's immediate supervisor, the Superintendent or designee, and the Board. Each employee is required to follow all such directives unless they necessarily place the employee, another employee or a student in an unsafe or dangerous condition; or they necessarily require the violation of applicable law.
3. Each employee shall adhere to relevant working conditions, the employee's assignment, including any rules or regulations regarding discipline, established by a collective bargaining agreement, the Board, the Superintendent or designee, or the employee's immediate supervisor.
4. Each employee shall adhere to all applicable law, including the law covering the operations of the District, the educational program of the District, the rights of students, the rights of employees, and the rights of parents and the public.
5. The District is an equal employment opportunity employer that complies with all applicable federal and state non-discrimination laws. The District does not tolerate the violation of such laws by any employee. The District also does not tolerate illegal sexual harassment or any other illegal harassment by an employee.
6. The District is committed to all applicable laws concerning equal educational opportunity for all the students in the District. The District does not tolerate the violation of such laws by any employee.
7. Each employee is prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled substance in any workplace or facility of the District. Each employee must notify the Superintendent in writing within five (5) days of any drug statute conviction for a violation occurring in any workplace or facility of this District. A conviction includes any finding or guilt, including a no contest plea, or imposition of a sentence.

8. No employee shall be under the influence of alcohol or a controlled substance while the employee is acting within the scope of employment. The use of drugs under and consistent with the directions of a physician which does not unreasonably impair the performance of an employee is not prohibited. An employee may use prescribed drugs while acting within the scope of employment as long as such use is under and consistent with the directions of a physician and such use does not unreasonably impair the performance of the employee.
9. Each employee shall report any unsafe condition or illegal activity to the employee's immediate supervisor, the Superintendent or the Assistant Superintendent as soon as possible after discovering the unsafe condition or illegal activity. The District does not tolerate the observance of illegal activity without reporting it as soon as possible to a representative of the District.
10. The District requires each employee to adhere to the Child Abuse and Neglect Reporting Act (Penal Code sections 11164-11174.3). Each employee who has knowledge of or observes a child in the employee's professional capacity or within the scope of employment when the employee knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone. Each employee then shall prepare and send a written report to the child protective agency within 36 hours of receiving the information concerning the incident.
11. No employee shall release confidential information involving another employee or a student to a parent or any other member of the public unless expressly authorized by applicable law, the Superintendent or designee, or the Board. Each employee is required to adhere to all applicable laws protecting the privacy rights of employees and students.
12. No employee shall smoke or use tobacco products at any workplace or facility of the district. The district discourages all employees from smoking or using tobacco products, and prohibits smoking and the use of tobacco products wherever an employee is acting within the scope of employment.
13. No employee shall remove District property from District facilities for personal use.
14. It is the responsibility for each employee to maintain the appropriate licensure/certification required by the applicable job description and register this document with the District prior to reporting to duty and upon renewal of that document if applicable. Failure to do so will result disciplinary action including removal from the assigned position and up to and including termination.

STAFF CONDUCT WITH STUDENTS

The Board expects all employees to exercise good judgment and maintain professional standards and boundaries when interacting with students both on and off school property. Inappropriate employee conduct shall include, but not be limited to, engaging in harassing or discriminatory behavior; engaging in inappropriate socialization or fraternization with a student; soliciting, encouraging, or establishing an inappropriate written, verbal, online or physical relationship with a student; furnishing tobacco, alcohol, or other illegal or unauthorized substances to a student; or engaging in child abuse.

An employee who observes or has evidence of inappropriate conduct between another employee and a student shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

Any employee who is found to have engaged in inappropriate conduct with a student in violation of the law or this policy shall be subject to disciplinary action.

No employee shall inflict, or cause to be inflicted, corporal punishment upon a student. The term "corporal punishment" means the same as it is defined by Education Code section 49001. Each employee is required to adhere to Education Code sections 49000 and 49001 that prohibit corporal punishment.

No employee shall use physical redirection that causes harm or embarrassment to students to redirect student conduct. Prohibited physical redirection includes, but is not limited to pinching, pushing, grabbing, blocking and holding students. For purposes of this policy, this prohibition does not include an employee's use of force that is reasonable and necessary to protect the employee, students, staff or other persons or to prevent damage to property or to obtain possession of weapons or other dangerous objects within the control of the student. (Education Code 49001).

The Board delegates to the Superintendent the authority to adopt written regulations regarding the conduct of employees as long as they are not inconsistent with Policies adopted by the Board. Any such written regulations shall be adhered to as if the Board adopted them.

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

PENAL CODE

11164-11174.4 *Child Abuse and Neglect Reporting Act*

CODE OF REGULATIONS, TITLE 5

80331-80338 *Rules of Conduct for Professional Educators*

Management Resources:

COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

Standards for School Leaders, 1996

NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

Code of Ethics of the Education Profession, 1975

WEB SITES

CSBA: <http://www.csba.org>

Association of California School Administrators: <http://www.acsa.org>

California Department of Education: <http://www.cde.ca.gov>

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Council of Chief State School Officers: <http://www.ccsso.org>

Cross Reference:

BOARD POLICY

0200 - Goals for the School District
4112.2 - Certification
4119.1/4219.1/4319.1 - Civil and Legal Rights
4131 - Staff Development
4231 - Staff Development
4331 - Staff Development
2111 - Superintendent Governance Standards
9005 - Governance Standards
0410 - Nondiscrimination in District Programs and Activities
4040 - Employee Use of Technology
5131 - Conduct
6163.4 - Student Use of Technology
5141.4 - Child Abuse Prevention and Reporting
5144- Student Discipline
4118 - Suspension/Disciplinary Action
4218 - Dismissal/Suspension/Disciplinary Action

DATE POLICY ADOPTED- May 24, 1990

DATE POLICY REVISED- June 20, 1991

DATE POLICY REVISED- August 13, 1992

DATE POLICY REVISED- December 16, 1993

Policy Reviewed – 1st Reading: May 10, 2012

2nd Reading & Adoption: June 28, 2012

VISTA UNIFIED SCHOOL DISTRICT

All Personnel

BOARD POLICY NO. 4219: DUTIES, RESPONSIBILITIES AND RIGHTS (Classified Personnel)

The Board of Trustees recognizes the importance of having adequate job descriptions for every employee. The Superintendent or designee shall prepare and regularly update job descriptions for all classes of positions.

All employees shall fulfill the duties and responsibilities set forth in their job descriptions and shall comply with policies, administrative regulations, operational procedures, applicable employee agreements, and local, state, and federal laws.

Each employee shall adhere to all applicable law, including the law covering the operations of the District, the educational program of the District, the rights of students, the rights of employees, and the rights of parents and the public.

The District is an equal employment opportunity employer that complies with all applicable federal and state non-discrimination laws. The District does not tolerate the violation of such laws by any employee. The District also does not tolerate illegal sexual harassment or any other illegal harassment by an employee.

The District is committed to all applicable laws concerning equal educational opportunity for all the students in the District. The District does not tolerate the violation of such laws by any employee.

The District requires each employee to adhere to the Child Abuse and Neglect Reporting Act (Penal Code sections 11164-11174.3). Each employee who has knowledge of or observes a child in the employee's professional capacity or within the scope of employment when the employee knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone. Each employee then shall prepare and send a written report to the child protective agency within 36 hours of receiving the information concerning the incident.

The Board delegates to the Superintendent the authority to adopt written regulations regarding the conduct of employees as long as they are not inconsistent with Policies adopted by the Board. Any such written regulations shall be adhered to as if the Board adopted them.

Policy Reviewed – 1st Reading: September 9, 2010
2nd Reading & Approval: October 21, 2010

VISTA UNIFIED SCHOOL DISTRICT

All Personnel

BOARD POLICY NO. 4212.42: DRUG AND ALCOHOL TESTING FOR SCHOOL SCHOOL BUS DRIVERS (Classified Personnel)

The Board of Education desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program for all district drivers and other employees who hold a commercial driver's license which is necessary to perform duties related to their employment with the district. This program shall be designed to fulfill the requirements of state and federal law.

The district's testing program shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306)

The Superintendent or designee shall contract for testing services and shall ensure that testing contractors and procedures are certified by the U.S. Department of Health and Human Services to conduct drug specimen analysis and to conform to the requirements of federal law.

No driver may operate a district vehicle when his/her blood alcohol content is found to be .01 percent or greater. A driver shall not consume alcohol while on duty or for four hours prior to on-duty time and up to eight hours following an accident or until he/she undergoes a post-accident test, whichever occurs first. A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses a controlled substance, unless so instructed by a physician. (49 CFR 382.205, 382.207, 382.209; Vehicle Code 34520.3; 13 CCR 1213.1)

Any driver who tests positive for alcohol or drugs or who refuses to submit to a test shall be removed from safety-sensitive functions and may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

The Superintendent or designee shall ensure that each driver receives an explanation of the federal regulations and the district's policy and procedure in accordance with law. In addition, each driver shall sign a statement certifying that he/she has received a copy of the above materials. Representatives of employee organizations shall be notified of the availability of this information. (49 CFR 382.601)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

VEHICLE CODE

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act