

RANCHO SANTA FE SCHOOL DISTRICT

Board Policies Covering All Employees

Board Policy No. 4003: SEXUAL HARASSMENT POLICY INCLUDING COMPLAINT PROCEDURE FOR ALL ILLEGAL DISCRIMINATION AND HARASSMENT

A. Introduction

The District recognizes that harassment on the basis of sex is a violation of both federal and state employment discrimination laws as well as this District Policy. The District will provide to all employees a work environment free from sexual harassment and will not tolerate such conduct on the part of any employee or nonemployee that the District knows or should know is engaging in harassing conduct towards District employees in the workplace.

Harassment or discrimination against any employee, intern, volunteer, or applicant for employment by a supervisor, management employee, elected or appointed official, co-worker, or third-party on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability as defined by federal and state law, medical condition, genetic information, marital status, sex (includes pregnancy, childbirth, breastfeeding and/or related medical conditions), gender, gender identity, gender expression, reproductive health decision making, actual or perceived sexual orientation, age (over 40), political affiliation, military or veteran status, or association with a person or group with one or more of these actual or perceived characteristics will not be tolerated.

Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below. Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited.

Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

Under this policy and state law, the District is prohibited from requiring an employee, in exchange for a raise or bonus or as a condition of employment or continued employment, to sign a nondisparagement agreement or release the right to file a claim against the District for unlawful acts in the workplace, including sexual harassment. The District is also prohibited from requiring an applicant or employee to disclose information relating to an employee's reproductive health decision making.

B. Definitions

1. **Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical or mental disability as defined by federal and state law, medical condition, genetic

information, marital status, sex (includes pregnancy, childbirth, breastfeeding and/or related medical conditions), gender, gender identity, gender expression, actual or perceived sexual orientation, reproductive health decision making, age (over 40), political affiliation, military or veteran status.

2. Policy Coverage: This Policy prohibits the District, elected or appointed officials, officers, and employees from harassing or discriminating against employees, interns, volunteers, or applicants for employment because of: 1) an individual's Protected Classification; 2) the perception that an individual has a Protected Classification; or 3) an individual association with a person who has or is perceived to have a Protected Classification.
3. Discrimination: This policy prohibits treating individuals differently because of the individual's Protected Classification as defined in this Policy.
4. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. It includes but is not limited to circumstances in which:
 - i. Submission to such conduct is made a term or condition of an individual's employment; or
 - ii. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual; or
 - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. A hostile work environment is established where there is unwelcome sexual conduct that a reasonable person of the same gender as the complainant would consider sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment.

Sexually harassing conduct may be either "quid pro quo" or hostile environment" sexual harassment:

- i. "Quid pro quo" (Latin for "this for that") sexual harassment is characterized by explicit or implicit conditioning of a job or promotion on an applicant or employee's submission to sexual advances or other conduct based on sex.
 - ii. Hostile work environment sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interfere with an employee's work performance or create an intimidating, hostile, or offensive work environment.
5. Harassment may include, but is not limited to, the following types of behavior that is taken because of a person's Protected Classification. Examples of harassment include:

- i. Verbal harassment - Includes, but is not limited to, unwelcome derogatory comments, remarks, slurs, jokes or innuendo based on sex or of a sexual nature and may include, but is not limited to, unwelcome sexual comments, obscenities or innuendo regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation or unwelcome or repeated flirting, or proposals to meet, date; or engage in conversations which include the verbal statements defined above; demands for sexual favors, or verbal abuse, threats or intimidation of a sexual nature, or patronizing or ridiculing statements which convey derogatory attitudes toward or are demeaning to a particular gender.
- ii. Physical harassment - Includes, but is not limited to, unwelcome and offensive touching, assault, impeding or blocking free movement, attempting to or kissing, patting, stroking, grabbing, or invading the space of another; pinching, leering, staring, unnecessarily brushing against, whistling or making sexual signs or gestures toward or in the presence of another.
- iii. Visual harassment - Includes, but is not limited to, the display or circulation of sexually derogatory, demeaning, or offensive posters, pictures, cards, cartoons, graffiti, drawings, or gestures; or reading materials, computer graphics or electronic media transmissions.
- iv. Solicitation of sexual favors - Includes, but is not limited to, unwelcome sexual advances, suggestions or requests for sexual acts or favors.
- v. Electronic communications – Includes, but is not limited to, unwelcome communications, photos, videos, or other content sent through electronic messaging that is sexual in nature, such as texts, emails, and social media.

Harassment because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexual harassing conduct need not be motivated by sexual desire.

6. Retaliation: Any adverse conduct taken because a District employee, intern, volunteer, or applicant for employment has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited.

C. Complaints of Illegal Discrimination, Harassment, or Retaliation

Any individual with a complaint of discrimination, harassment, or retaliation for filing a complaint or participating in the complaint process should immediately report it to the Superintendent or Principal. If the Superintendent is the individual about whom the complaint is to be made, the employee should make the complaint directly to the Board President.

All complaints will be fairly, promptly, and thoroughly investigated. Investigations will be conducted in a manner that provides all parties appropriate due process. If misconduct

is found at the end of an investigation, appropriate remedial measures shall be taken. Employees shall not be exposed to retaliation as a result of lodging a complaint or participating in any workplace investigation.

No employee is required to file any complaint with the alleged harasser or offender.

Upon notification or discovery of a complaint, the Superintendent or designee will:

1. Inform the complainant of any rights under any relevant complaint procedure or policy;
2. Authorize a timely investigation of the complaint and supervise and/or investigate the complaint. The investigation will include interviews with: 1) the complainant; 2) the accused harasser; and 3) any other persons who reasonably may have relevant knowledge concerning the complaint, such as witnesses and victims of similar conduct;
3. Review factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment; giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, or visual aspects of the action and the context in which the alleged incidents occurred;
4. Report the results of the investigation and the determination as to whether harassment occurred to appropriate persons including to the complainant and the alleged harasser;
5. If harassment occurred, take and/or recommend to the Board prompt and effective remedial action against the harasser. This action will be commensurate with the severity of the offense and will be communicated to the complainant;
6. Reasonable steps will be taken to protect the victim and other potential victims from further harassment;
7. Reasonable steps will be taken to protect the victim from any retaliation as a result of communicating the complaint;
8. Reasonable steps will be taken to maintain the confidentiality of the complaint process to the extent possible; and
9. Appropriate action will be taken whenever possible to alleviate the effects of the harassment.

D. Appeal Procedure

If the complainant is not satisfied with the decision of the Superintendent, the complainant may appeal the decision to the Board within fifteen (15) calendar days of receipt of the decision. The appeal shall be filed with the Superintendent who shall transmit the appeal to the Board. The Board may or may not meet with the complainant.

The Board will, however, issue a decision and give the complainant written notice of its decision.

E. Confidentiality

The District recognizes that confidentiality is important to all parties involved in an investigation of discrimination, harassment, and/or retaliation. Confidentiality will be kept by the District to the extent possible under the circumstances, but complete confidentiality cannot occur due to the need to fully investigate and the duty to take effective remedial action.

F. Dissemination Of Policy

1. All employees shall be notified of this Policy.
2. A copy of this Policy shall be posted along with and in the same manner as is other material which is posted for the benefit or protection of employees.

G. Employee Training

All employees shall receive training in sexual harassment. Governing Board members, supervisors and those with supervisory duties shall receive at least two hours of qualified sexual harassment training before January 1, 2006 and every two years thereafter. All nonsupervisory employees shall receive at least one hour of sexual harassment training by January 1, 2020, and once every 2 years thereafter. Employees newly promoted to positions including supervisory duties and supervisors newly employed after July 1, 2005 shall be trained within six months of the date of such employment or promotion.

“Qualified training” shall mean classroom or other effective interactive training and education to include information, examples, and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment provided by trainers or educators with knowledge and expertise in the prevention of sexual harassment, discrimination and retaliation, and any other requirements of applicable regulations. Supervisors are required to report any complaints of misconduct to the Superintendent.

H. Available Legal Remedies And Additional Complaint Process

Employees, interns, volunteers, or job applicants who believe that they have been subject to discrimination, harassment, or retaliation may, within one year of the harassment, file a complaint of discrimination with the California Civil Rights Department (CRD) or the U.S. Equal Employment Opportunity Commission (EEOC).

These governmental agencies offer legal remedies and a complaint process. The nearest CRD and EEOC offices are listed in the government section of the telephone book or employees can check the equal employment opportunity posters that are located on District bulletin boards for office locations and telephone numbers.

Legal Reference:

- Federal: Title VII of Civil Rights Act of 1964, 42 U.S.C. sections 2000e-2000e-17.
Americans With Disabilities Act (ADA), 42 U.S.C. section 12101 *et seq.*
Equal Pay Act of 1963, 29 U.S.C. section 206(d)
Title IX, Education Amendments of 1972, 20 U.S.C. sections 1681-1688, as
amended by the Civil Rights Restoration Act of 1987, 20 U.S.C. sections
1681-1688
Vocational Rehabilitation Act of 1973, 29 U.S.C. section 791 *et seq.*, sections 503
and 504
- State: Fair Employment And Housing Act, Government Code sections 12900-12996
Government Code section 11135
Education Code sections 210-232, 44100-44105, 44858, 44859

Date Policy Adopted By The Board: September 6, 1990

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