

Personnel – All Personnel

Sexual Harassment

The County Superintendent prohibits sexual harassment of county office employees and job applicants. The County Superintendent also prohibits retaliatory behavior or action against county office employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

The County Superintendent or designee shall take all actions necessary to insure 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 county office'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 take other subsequent necessary action. (5 CCR 4964)

Any county office 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 site administrator, Assistant Superintendent or the County Superintendent.

A supervisor, site administrator, or other county office administrator who receives a harassment complaint shall promptly notify the Assistant Superintendent, Human Resources, 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.

Complaints of sexual harassment may be filed directly with the Office's Title IX compliance officer:

Jeanne Nava, Assistant Superintendent, Human Resources
2637 W. Burrel, P.O. Box 5091, Visalia CA 93278-5091
559-733-6306

Any county office employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a county office employee, job applicant or student, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

Legal References on next page

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Sexual Harassment (Continued)

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

CALIFORNIA CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary educational programs receiving state and federal financial assistance

UNITED STATES CODE, TITLE 42

2000d-2000d-7 - Title VI, Civil Rights Act of 1964

2000e-2000e-17 – Title II, Civil Rights Act of 1964, as amended

2000h-2-2000h-6 - Title IX, 1972 Education Act Amendments

U.S. CODE OF 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) 477 US 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://eeoc.gov>

U. S. Department of Education, Office of Civil Rights:

<http://ed.gov/about/offices/OCR>

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Revised: 2/17/88

Revised: 1/16/91

Tulare County Board of Education

Visalia, CA

Changed to Superintendent Policy

Revised Policy Approved: 12/20/06

Tulare County Superintendent of Schools

Visalia CA

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Sexual Harassment

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 either 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 county office.

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, an employee, 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, gestures or sexually explicit e-mails; 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 county office's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Training

By January 1, 2006, and every two years thereafter, the County 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)

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Sexual Harassment (Continued)

The county office's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state statutory law 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 practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

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

Notifications

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

1. Be displayed in a prominent location in the main administrative building or other area of the county office where notices of county office rules, regulations, procedures and standards of conduct are posted.
2. Be provided to each employee at the beginning of the first quarter or first semester of the school year, or whenever a new employee is hired.
3. Appear in any school or county office publication that sets forth the school's or county office'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 county office information sheets that contain, at a minimum, components on:

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 office's complaint process available to the employee.
5. The legal remedies and complaint process available through DFEH and Equal Employment Opportunity Commission (EEOC).
6. Directions on how to contact DFEH and EEOC.

AR 4119.11(c)
AR 4219.11(c)
AR 4319.11(c)

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Sexual Harassment (Continued)

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.

Regulation
Approved: 12/20/06

Tulare County Superintendent of Schools
Visalia, CA

Tulare County Office of Education

Jim Vidak, County Superintendent of Schools

SEXUAL HARASSMENT INFORMATION SHEET

Sexual Harassment is a form of discrimination which is prohibited by both federal and state law. County Board and Superintendent Policies 4119.11 prohibit sexual harassment of employees and Board Policy 5145.7 prohibits sexual harassment of students. Sexual harassment includes gender-based harassment of a person of the same sex as the harasser. Both state and federal law and Office Policy prohibit retaliation against any complainant or participant in the sexual harassment complaint process.

Definition: 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 gender, in the work or educational setting when:

- Submission to the conduct is made expressly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of such conduct by the individual is used as the basis for an employment decision, including, but not limited to, promotion, demotion, transfer, reassignment or termination.
- The conduct has the purpose or effect of unreasonably interfering with the 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.

Examples of Sexual Harassment: Sexual harassment includes, but is not limited to:

- Unwelcome leering, sexual flirtations or propositions.
- Offering employment benefits in exchange for sexual favors.
- Making sexual gestures, displaying sexually suggestive objects, pictures, cartoons or posters.
- Unwelcome sexual slurs, epithets, threats, innuendoes, verbal abuse, derogatory comments or sexually degrading descriptions.
- Sexual jokes, stories, cartoons, drawings, pictures, graffiti, or sexually explicit e-mails.
- Spreading sexual rumors.
- Graphic verbal comments about an individual's body, or overly personal conversations, or pressure for sexual activity.
- Touching an individual's body or clothes in a sexual way.
- Any act of retaliation against an individual who reports a violation of the Office's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.
- Massaging, grabbing, fondling, stroking or brushing the body.
- Cornering, blocking, leaning over, or impeding normal movements.
- Displaying sexually suggestive objects or using sexual computer screen savers.

Prohibition: The Office prohibits sexual harassment in the working environment of employees or applicants by any person in any form. Employees who permit or engage in such harassment may be subject to disciplinary action up to and including dismissal.

Complaint Procedure: Any employee who believes he or she has been sexually harassed is encouraged to report the incident through either an informal or formal complaint process. An informal complaint may be made with the employment supervisor, program manager, or administrator. A formal complaint must be in writing and made to the Assistant Superintendent of Human Resources, PO Box 5091, Visalia CA 93278-5091. Any employee having knowledge of conduct by another employee, student volunteer or individual in the employment or academic community which may constitute sexual harassment of employees or students is required to immediately report such conduct to any of the individuals specified in the Office's policies.

Employees needing additional information regarding the Office's sexual harassment policies should contact the Assistant Superintendent of Human Resources at 559-733-6306. A copy of the Office's policy prohibiting sexual harassment of employees and sexual harassment of students can be obtained from the office of the Assistant Superintendent of Human Resources.

Legal Remedies: The Tulare County Office of Education encourages employees to file their complaints of sexual harassment with the Office so that the complaint can be resolved at the earliest possible date. However, employees are not prohibited from submitting their complaint directly to the Department of Fair Employment and Housing (DFEH). The address and telephone number of the local office of the DFEH are as follows:

Fresno DFEH
1900 Mariposa Mall Suite 130
Fresno, CA 93721-2500
(800) 884-1684

Employees who file a complaint may be entitled to civil law remedies, including, but not limited to, injunctions, restraining orders, hiring, reinstatement; back pay, promotion or monetary damages.