

**SAN LORENZO
UNIFIED SCHOOL DISTRICT
BOARD POLICY**

Student

BP 5145.7 (a)

SEXUAL HARASSMENT

It is the policy of the San Lorenzo Unified School District to provide a school environment free from all forms of harassment, including sexual harassment, and to maintain an environment in which all students and adults model this behavior and are treated with dignity and respect. Therefore, no student shall be subjected to sexual overtures or conduct, either verbal, visual or physical, which is intimidating, hostile, offensive, or unwelcome. Such conduct by adults or students is deemed unacceptable behavior and will not be tolerated by the school district.

For purposes of this policy, “sexual harassment” is defined for student-to-student interaction as unwelcome sexual advances, requests for sexual favors and other verbal, visual and physical conduct of a sexual nature. “Sexual harassment” is defined for adult-to-student interaction as any sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature. “Sexual harassment” is also defined as conduct of a sexual nature which affects an individual’s employment, academic status or progress; which has a negative impact on an individual’s work or academic performance; which creates a work or educational environment that is intimidating, hostile or offensive; or which affects benefits, services, honors, programs or activities available to an individual in the education setting.

The Board of Education considers sexual harassment a major offense. Violation of this policy will constitute cause for disciplinary action. Specific disciplinary action shall be related to the severity of the incident and/or the degree to which repeated incidents have occurred. Such disciplinary actions for employees may include but are not limited to verbal warnings, letters of reprimand, suspension with or without pay and dismissal, along with possible reporting to police if actions mandate. Such disciplinary actions for students may range from counseling to suspension or expulsion.

The Superintendent is directed to establish due process procedures that provide a person accused of sexual harassment the opportunity to respond to allegations and to provide an appropriate defense. The Superintendent is also directed to develop administrative regulations that will ensure adequate communication of this policy to all students, parents and employees and to provide appropriate complaint and resolution procedures.

Legal Reference:

GOVERNMENT CODE

Government Code, Section 12940(i)

EDUCATION CODE

Education Code, Sections 200, 212.5, 220 and 230

Board adopted: August 19, 2003

**SAN LORENZO
UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE REGULATIONS**

Student

AR 5145.7 (a)

SEXUAL HARASSMENT

Purpose

In accordance with Board policy prohibiting sexual harassment, the purpose of this administrative regulation is to provide a procedure to process complaints of sexual harassment, to provide procedures for the investigation of such complaints, to prohibit retaliation against victims of sexual harassment and to work toward prevention of sexual harassment.

Sexual Harassment Defined

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- Submission to the conduct is explicitly or implicitly made a term or condition of an individual's academic status, or progress.
- Submission to, or rejection of the conduct by the individual is used as the basis of academic decisions affecting the individual.
- The conduct has the purpose or effect of having a negative impact upon the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment based on sexual harassment.
- Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs or activities available at or through the District.

Examples of Sexual Harassment

By way of example, sexual harassment includes, but is not limited to:

- Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, unwanted touching, impeding or blocking movement, leering, gestures, display of sexually suggestive objects, pictures or cartoons.

- Continuing to express sexual interest after being informed that the interest is unwelcome.
- Coercive sexual behavior used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student, including promises or threats regarding grades, course admission, performance evaluations, or recommendations; enhancement or limitation of student benefits or services. (e.g. scholarships, financial aid, work study job.)
- Offering favors or benefits, such as favorable grades, assignments, or duties in exchange for sexual favors.
- The creation of an atmosphere of sexual harassment or intimidation, or a hostile or offensive educational environment based on sexual harassment.
- Being made to feel uncomfortable or isolated for not participating in or responding to sexual jokes, cartoons, or comments.
- Any other conduct, which, at the time of the incident, is deemed by state or federal law or its implementing regulations to constitute sexual harassment.

Retaliation Prohibited

It is the policy of this District not to discourage persons from filing a sexual harassment complaint. Moreover, retaliation against any student or other person for the exercise of the right to file a sexual harassment complaint is strictly prohibited. To avoid retaliation and the appearance of retaliation, students and employees are directed:

1. To refrain from taking any action that dissuades any person from exercising the right to file a sexual harassment complaint.
2. To keep confidential the facts of any complaints or investigation made pursuant to this policy, including the identity of any witnesses or any facts that disclose the identity of the claimants or witnesses, to the extent permitted by law.
3. The person against whom a complaint has been filed is directed not to communicate with any complainant, witness or other person involved in any complaint either in person, by mail or telephone, or through any intermediary.

Allegations of Child Abuse

Allegations of child abuse, including violations of Penal Code §§ 11165, 11165.1, and 11165.6, is not sexual harassment as defined by this Regulation. However, based on the facts and circumstances of a particular case and to the extent required by law, the District may, but is not required to, process such a complaint under this Regulation.

Allegations of child abuse will be reported to the appropriate agency for their investigation. Additionally, allegations of child abuse will be reviewed for appropriate disciplinary action, if any.

Confidentiality

All matters pertaining to the filing, investigation, and resolution of sexual harassment complaints shall be confidential. Files pertaining to sexual harassment complaints shall not become public records.

Notice to Students

The site administrator or designee shall ensure that all newly enrolled and currently enrolled students grades 4-12 are notified of the Board's policies and regulations in order to prevent incidents of sexual harassment within the District.

Responsible District Officer

The Administrator In Charge of Personnel Services shall serve as the Responsible District Officer unless otherwise indicated in the informal complaint process. Subject to the authority of the Board of Trustees and the Superintendent, the Administrator In Charge of Personnel Services shall be responsible for overall implementation of policies and regulations prohibiting sexual harassment. Subject to the exceptions identified below, the Administrator In Charge of Personnel Services, or designee, will conduct the investigation into formal complaints of sexual harassment, in which the alleged harasser is an employee. The site principal or designee, will conduct the investigation into formal complaints of sexual harassment, in which the alleged harasser is a student. The Administrator In Charge of Personnel Services shall ensure that this policy and regulation is appropriately distributed to employees and students, and, with the consent of the Superintendent, may initiate training and education programs as appropriate to enable employees and students to better understand the problems and consequences of sexual harassment.

Complaint Process

Students who feel aggrieved because of conduct that may constitute sexual harassment are encouraged, but not required, to directly inform the person engaging in such conduct that such conduct is unwelcome or offensive and should stop. However, if a direct discussion is uncomfortable or otherwise deemed inappropriate by the individual aggrieved because of alleged sexual harassment, then the following steps should be taken:

- Informal Resolution

When a student feels that he or she has been sexually harassed, they should contact a site administrator (principal, vice principal, counselor). If the alleged victim contacts an employee other than a site administrator, it is the responsibility of that District employee to notify a site administrator that a complaint has been received. The site administrator shall be the Responsible District Officer at the informal resolution level. However, if the Responsible District Officer is implicated in the complaint, the complainant should contact the Administrator In Charge of Personnel Services who will then serve as the Responsible District Officer or designate another appropriate person. If the Administrator In Charge of Personnel Services is implicated in the complaint, the complainant should contact the Superintendent who will then serve as the Responsible District Officer. If the Superintendent is implicated in the complaint, the complainant should contact a member of the Board. The Board will then designate a District employee or other appropriate person as the Responsible District Officer to resolve the complaint.

The Responsible District Officer shall separately counsel the complainant and the alleged offender and outline possible options for informal resolution of the complaint. If an informal resolution is achieved, the complainant's decision not to proceed with the filing of a formal complaint shall be obtained in writing, after the complainant receives and reviews the formal complaint procedures. If informal resolution of the complaint cannot be achieved within thirty (30) calendar days of the District's receipt of the complaint, the Responsible District Officer or designee shall provide the complainant with a copy of this policy, and inform the complainant of the right to file a formal written sexual harassment complaint under this procedure.

- Formal Complaints

If a student feels that he or she has been subjected to sexual harassment, the student should make a formal written complaint to the Administrator In Charge of Personnel Services who is the Responsible District Officer no later than six months from the date the alleged sexual harassment occurred, or the date the complainant first obtained knowledge of the facts of the alleged sexual harassment, unless the time for filing is extended by the Superintendent. Requests for filing extensions shall be made to the Superintendent in writing. The Superintendent may grant an extension for good cause for a period not to exceed ninety (90) days following the expiration of the time allowed.

The formal written complaint should state the name of the complainant, the date of the complaint, the date of the alleged harassment, the name or names of the harasser(s), where such harassment occurred, a detailed statement of the circumstances constituting the alleged harassment, and the requested remedy.

- Notice to Parties

With ten (10) calendar days of receipt of a written complaint, or as soon thereafter as possible, the Responsible District Officer or other designated employee, or outside investigator(s), shall:

- a. Notify the student's parent(s) of the complaint unless it is apparent from the complaint that such notification may be harmful to the student;
- b. Meet with the student if necessary to obtain clarification of the student's written complaint of sexual harassment. Unless it is apparent from the complaint that notification of the parent may be harmful to the student, notify the student's parent(s) of the meeting;
- c. Inform the alleged offender of the nature of the student's complaint. If the alleged offender is a student, notify the alleged offender's parent(s) of the complaint unless it is apparent from the complaint that notification may be harmful to the alleged offender;
- d. Provide a copy of the District's sexual harassment policy and these procedures to the alleged offender; and
- e. Individually advise the student and the alleged offender that the complaint and the investigation including written reports and other written statements will be handled as confidentially as possible, consistent with a thorough investigation and appropriate disposition of the matter and current state and federal confidentiality and disclosure laws.

- Investigation

The Responsible District Officer shall conduct, or cause to be conducted, a thorough, objective, and equitable investigation of the complaint or designate appropriate individuals for that purpose. The investigation of complaints may be assigned to other staff or to outside persons or organizations. The investigation should, if at all possible, be commenced within fourteen (14) calendar days of receiving the written complaint or as soon thereafter as possible. An outside investigator or investigators may, subject to Board authorization, be engaged depending on the nature and scope of the allegations. The term investigator includes neutral fact finders or other professional qualified by training and experience to assist in sexual harassment complaint procedures and process.

The Responsible District Officer or designee shall consult with all individuals reasonably believed to have relevant information, including the complainant and the alleged harasser(s), any witnesses to the conduct, and victims of similar conduct, if any, that the investigator(s) reasonably believes may exist. The investigation shall be carried on discreetly, maintaining confidentiality of the complainant and the alleged offender insofar as legally and practically possible, while still conducting an effective and thorough investigation. In determining whether the alleged conduct constitutes sexual harassment, the Responsible District Officer or designee should look at the record as a whole and the totality of the circumstances, such as the nature of the alleged sexual harassment and the context in which the alleged incidents occurred.

- Investigation Report and Decision

Within sixty (60) calendar days of receiving the formal complaint, unless due to the nature and complexity of the evidence or the unavailability of relevant witnesses additional time is required, and the complainant agrees in writing to an extension, the District Superintendent or designee shall communicate in writing the District's final administrative decision to the complainant and the alleged offender.

The District's final administrative report shall include at least the following: (a) a summary of the investigative report; (b) an administrative determination regarding whether discrimination did or did not occur with respect to each allegation of the complaint; (c) a description of actions taken, if any, to prevent similar problems from occurring in the future; (d) the proposed resolution of the complaint; and (e) the complainant's and the alleged offender's right to appeal to the State Department of Education and the procedures for initiating an appeal.

- Appeal Procedures

If a complainant or an alleged offender is not satisfied with the results of the District final administrative determination, the complainant may, within fifteen (15) calendar days, submit a written appeal to the State Department of Education. The party appealing the decision shall specify the reasons for the appeal and include with the appeal a copy of the complaint and the District's final administrative decision. Copies of all appeals shall be given to all other complainants and alleged offenders.

- Remedial Actions

If the investigation reveals there is reasonable cause to believe that sexual harassment has occurred, the District shall take appropriate action to ensure that the harassment ceases and will not recur. The Responsible District Officer or designee will proceed in the same manner as any other suspension or a suspension with recommendation for consideration of expulsion.

It is reasonable to presume that when the accusation of sexual harassment is not supported by the evidence, that the complainant's parents will want to discuss or contest the matter. The Responsible District Officer or designee must be prepared to judiciously review the information supporting the finding with the parents.

It is reasonable to presume that when the accusation of sexual harassment is supported by the evidence, that the parents of the accused will want to discuss or contest the matter. The Responsible District Officer or designee must be prepared to judiciously review the information supporting the findings with the parents.

When it appears that a sexual assault or battery may have occurred the matter shall be referred to a law enforcement agency. Sexual battery occurs whenever there is an offensive touching or fondling of an intimate part of another person.

Relationship to Other Enforcement Mechanisms

The District's sexual harassment policies and procedures are intended to supplement, and not replace, any applicable state and federal laws and regulations. Students may also request that other state and federal governmental agencies investigate complaints of sexual harassment. For example, any student who thinks he or she has been harassed or retaliated against for resisting or complaining about harassment may file a complaint with the following agency:

Office for Civil Rights
50 United Nations Plaza, Room 239
San Francisco, California 94102
(415) 556-4275

The District reserves the right to postpone its own investigation should the complaint be investigated by another state or federal agency.

Legal Reference:

UNITED STATES CODE

42 U.S.C. 2000e to 2000e-17

UNITED STATES CODE, TITLE 42

Title VII of the Civil Rights Act of 1964

PENAL CODE

Penal Code Sections 11165-11174

CIVIL CODE

Civil Code Section 51.9

EDUCATION CODE

Education Code Sections 200-232

CALIFORNIA CODE OF REGULATIONS, TITLE 5

5 CCR 4600 et seq.

Board Approved: August 19, 2003

San Lorenzo Unified School District

**STUDENT SEXUAL HARASSMENT
FORMAL COMPLAINT APPEAL FORM, Level II**

Instructions: Students alleging sexual harassment and requesting an appeal on the Administrator In Charge of Personnel Services' decision on this matter are required to complete this form and submit it to the Superintendent.

1. Name of Complainant: _____

Home Address	Zip	Home Telephone
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School/Office: _____

3. Reason for Appeal: _____

Remedy Sought: _____

PLEASE ATTACH ANY STATEMENTS, NAMES OF WITNESSES, REPORTS OR OTHER DOCUMENTS WHICH YOU FEEL ARE RELEVANT TO YOUR COMPLAINT.

I certify that the foregoing is true and correct.

Print Name

Signature

Date

FOR OFFICE USE ONLY: Date received: _____ Initial _____

San Lorenzo Unified School District

**STUDENT SEXUAL HARASSMENT
FORMAL COMPLAINT APPEAL FORM, Level III**

Instructions: Students alleging sexual harassment and requesting an appeal on the Superintendent's decision on this matter are required to complete this form and submit it to the Board of Education.

1. Name of Complainant: _____

Home Address	Zip	Home Telephone
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School/Office: _____

4. Reason for Appeal: _____

Remedy Sought: _____

PLEASE ATTACH ANY STATEMENTS, NAMES OF WITNESSES, REPORTS OR OTHER DOCUMENTS WHICH YOU FEEL ARE RELEVANT TO YOUR COMPLAINT.

I certify that the foregoing is true and correct.

Print Name

Signature

Date

FOR OFFICE USE ONLY: Date received: _____ Initial _____