

**SAN LORENZO
UNIFIED SCHOOL DISTRICT
BOARD POLICY**

All Personnel

BP 4119.11 (a)
4219.11
4319.11

SEXUAL HARASSMENT

Purpose To establish a policy to ensure freedom from sexual harassment in the workplace.

The Board declares that it is the policy of the District to prohibit sexual harassment in the workplace and in all programs and activities of the District.

Sexual Harassment Defined

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

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment status, or promotion.
2. Submission to, or rejection of the conduct by the individual is used as the basis of employment decision affecting the individual.
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance, or of creating an intimidating, hostile or offensive work environment based on sexual harassment.
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits, services or activities available at or through the District.

Examples of Sexual Harassment

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

1. 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.

2. Continuing to express sexual interest after being informed that the interest is unwelcome.
3. Coercive sexual behavior used to control, influence, or affect the career, salary, or work environment of another employee, such as threats of reprisal; implying or withholding support for an appointment, promotion, transfer, or change of assignment; suggesting a poor performance report will be prepared; or suggesting probation will be failed.
4. Offering favors or benefits, such as a promotion, favorable performance evaluation, assignments, duties or shifts, recommendations, or reclassification, in exchange for sexual favors.
5. The creation of an atmosphere of sexual harassment or intimidation, or a hostile or offensive working environment based on sexual harassment.
6. Being made to feel uncomfortable or isolated for not participating in or responding to sexual jokes, cartoons, or comments.
7. 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.

The Board further declares that it is the policy of the District to act promptly, visibly, and vigorously in demonstrating a strong disapproval of sexual harassment. The Board, therefore, directs the Superintendent or designee to recommend procedures as appropriate to ensure that employees are free from sexual harassment and to provide a mechanism for resolution of complaints of sexual harassment that are consistent with applicable state and federal laws and regulation and consistent with due process requirements.

Retaliation Prohibited

It is the policy of this District not to discourage persons from filing sexual harassment complaints. 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, the 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.

Allegation of Child Abuse

Allegations of child abuse, including violation of Penal Code Section 11165, 11165.1, and 11165.6, are 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 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.

Legal Reference:

UNITED STATES CODE, TITLE 42

Title VII of the Civil Rights Act of 1964

UNITED STATES CODE

42 U.S.C. Section 20003

GOVERNMENT CODE

Government Code Section 12920, *et seq.*

EDUCATION CODE

Education Code Section 200, *et seq.*

Board adopted: July 29, 2003

**SAN LORENZO
UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE REGULATIONS**

All Personnel

AR 4119.11 (a)
4219.11
4319.11

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 the prevention of sexual harassment.

Responsible District Officer

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. The Administrator In Charge of Personnel Services shall ensure that this policy and regulation is appropriately distributed to employees and, with the consent of the Superintendent or designee, may initiate training and education programs as appropriate to enable employees to better understand the problems and consequences of sexual harassment.

Complaint Process

Employees who feel aggrieved because of conduct that may constitute sexual harassment should 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:

1. Informal Resolution

The purpose of the informal complaint process is to allow an individual who believes he/she has been sexually harassed or discriminated against to resolve the issue through a consultation process rather than the formal complaint process provided by this Directive.

When an employee feels that he or she has been sexually harassed, he/she should contact the Administrator In Charge of Personnel Services. If the alleged victim contacts an employee other than the Administrator In Charge of Personnel Services, it is the responsibility of that District employee to notify the Administrator In Charge of Personnel Services that a complaint has been received. The Administrator In Charge of Personnel Services shall serve as the Responsible District Officer. However, if the Administrator In Charge of Personnel Services is implicated in the complaint, the alleged victim should contact the Superintendent or designee who will then serve as the Responsible District Officer or designate another appropriate person. If the Superintendent or designee is implicated in the complaint, the complaining employee should contact a member of the Board. The Board will then designate a District employee, or another appropriate person, as the Responsible District Officer to resolve the complaint.

The Responsible District Officer shall 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.

2. Formal Complaints

If an employee feels that he or she has been subject to sexual harassment, the employee should make a formal written complaint to the District's Administrator In Charge of Personnel Services no later than six months from the date of 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 or designee. Request for filing extensions shall be made to the Superintendent in writing. The Superintendent or designee may grant an extension for good cause for a period not to exceed ninety (90) days following the expiration of the time allowed.

If the Administrator In Charge of Personnel Services is the individual's immediate supervisor or if the employee feels uncomfortable making the complaint to the Administrator In Charge of Personnel Services due to the Personnel Services Administrator's involvement in the Informal Resolution process, the employee should contact the Superintendent, who, in consultation with the Board, shall determine with whom the complaint should be filed. If the Superintendent is the employee's immediate supervisor or if the employee feels uncomfortable making the complaint to the Superintendent or designee due to the Superintendent's or designee's involvement, if any, in the Informal Resolution process, the employee should contact a member of the Board. The Board will then designate an employee, or an outside investigator or investigators, to investigate the complaint.

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.

3. Notice to Parties

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

- a. Meet with the employee if necessary to obtain clarification of the employee's written complaint of sexual harassment;
- b. Inform the alleged offender of the nature of the employee's complaint;
- c. Provide a copy of the District's sexual harassment policy and these procedures to the alleged offender; and
- d. Advise the employee and 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 professionals 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 Responsible District Officer or designee 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.

4. 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 Responsible District Officer shall communicate in writing the District's final administrative decision to the complainant and the alleged offender. The District's final administrative decision 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 alleged offender is not satisfied with the results of the District's final administrative decision, the complainant, or alleged offender 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.

5. 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 reoccur. Actions taken in response to allegations of harassment may include reprimand, reassignment, transfer, termination or other disciplinary action.

Sexual harassment shall be deemed to constitute just and reasonable cause for discipline and shall be deemed to be insubordination and a violation and refusal to obey the school laws of California or reasonable regulations for the good governance of the District.

The harasser(s) and other employees, if appropriate, will be informed that appropriate action shall be taken if further acts of harassment or retaliation occur. If further acts of harassment or retaliation do occur, appropriate action shall be taken.

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. Employees may also request that other state and federal governmental agencies investigate complaints of sexual harassment. For example, any employee who thinks he or she has been harassed or retaliated against for resisting or complaining about harassment may file a complaint with any of the following agencies:

California Department of Fair Employment and Housing
121 Spear Street, Suite 430
San Francisco, California 94105
(415) 904-2303
(800) 884-1684

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

Equal Employment Opportunity Commission
901 Market Street, Suite 500
San Francisco, California 94103
(415) 356-5100

Legal Reference:

GOVERNMENT CODE

Fair Employment and Housing Act (Gov't. Code 12900-12996)

TITLE 2, CALIFORNIA CODE OF REGULATIONS

DFEH Administrative Regulations 2 CRC 7287.6

TITLE 29, CODE OF FEDERAL REGULATIONS

EEOC Guidelines 29 C.F.R. 1604.11

UNITED STATES CODE, TITLE 42

Title VII of the Civil Rights Act of 1964

UNITED STATES CODE

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

PENAL CODE

Penal Code Section 51.9

CODE OF CIVIL PROCEDURE

Civil Code Section 51.9

EDUCATION CODE

Education Code Section 200-232

Board adopted: July 29, 2003

SEXUAL HARASSMENT COMPLAINT

PRIOR TO COMPLETING THIS FORM, PLEASE READ THE FOLLOWING:

- Accurate completion of this form will help ensure the immediate and thorough investigation of the complaint.
- This form should be submitted to the Administrator In Charge of Personnel Services.
- An investigation will be conducted promptly and fairly and all information will be confidential.
- Appropriate and immediate action will be taken if the District harassment policy has been violated. No action will be taken against an employee for filing a complaint.
- The employee filing the complaint will be notified of the outcome of the investigation.

PLEASE COMPLETE ALL SECTIONS, SIGN AND DATE THE COMPLAINT

NAME: _____

SCHOOL/DEPARTMENT: _____

Name of the person this complaint is being filed against:

When did the harassment occur?: _____

Where did the harassment occur?: _____

Please provide a detailed statement of the circumstances constituting the harassment. (*Continue on next page and/or add a separate piece of paper if necessary.*)
