

## **STUDENTS**

### **SUBJECT: Sexual Harassment**

The County Office of Education designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 and California Education Code 234.1, as well as to investigate or designate site administrators as investigators and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The coordinator/compliance officer(s) may be contacted at:

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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 educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any County Office of Education program or activity.

Types of conduct which are prohibited in the County Office of Education and school/programs and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually

degrading descriptions

3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Limiting a student's access to educational tools on the basis of sex
12. Sexual assault, sexual battery, or sexual coercion
13. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of the County Office of Education policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

### **Notifications**

A copy of the County Office of Education's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative buildings, near each school site office, or other areas where notices of County Office of Education's

rules, regulations, procedures and standards of conduct are posted (Education Code 231.5)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session (Education Code 231.5)

4. Appear in any school or County Office of Education publication that sets forth the school's or County Office of Education's comprehensive rules, regulations, procedures and standards of conduct (Education Code 231.5)

5. Be provided to employees and employee organizations

**Investigation of Complaints at School (Site-Level Grievance Procedure)**

1. The site administrator (Title IX Coordinator) or designee shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:

- a. The student who is complaining
- b. The person accused of harassment
- c. Anyone who witnessed the conduct complained of
- d. Anyone mentioned as having related information

2. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.

3. The site administrator (Title IX Coordinator) or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the site administrator or designee also may discuss the complaint with the following persons:

- a. The County Superintendent or designee
- b. The parent/guardian of the student who complained
- c. If the alleged harasser is a student, his/her parent/guardian
- d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
- e. Child protective agencies responsible for investigating child abuse reports

(cf. 5141.4 - Child Abuse Reporting Procedures)

- f. Legal counsel for the County Office of Education
4. When the student who complained and the alleged harasser so agree, the site administrator or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree.
  5. In reaching a decision about the complaint, the site administrator or designee may take into account:
    - a. Statements made by the persons identified above
    - b. The details and consistency of each person's account
    - c. Evidence of how the complaining student reacted to the incident
    - d. Evidence of any past instances of harassment by the alleged harasser
    - e. Evidence of any past harassment complaints that were found to be untrue
  6. To judge the severity of the harassment, the site administrator or designee may take into consideration:
    - a. How the misconduct affected one or more students' education
    - b. The type, frequency and duration of the misconduct
    - c. The number of persons involved
    - d. The age and gender of the person accused of harassment
    - e. The subject(s) of harassment
    - f. The place and situation where the incident occurred
    - g. Other incidents at the school, including incidents of harassment that were not related to gender
  7. The site administrator (Title IX Coordinator) or designee shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the

student who complained and the person accused.

8. The site administrator or designee (Title IX Coordinator) shall give the County Superintendent or designee a written report of the complaint and investigation. If the site administrator or designee verifies that sexual harassment occurred, this report shall describe the actions taken to end the harassment, address the effects of the harassment on the student harassed and the remedies provided, and prevent retaliation or further harassment.

9. Within two weeks after receiving the complaint, the site administrator or designee shall determine whether or not the student who complained has been further harassed. The site administrator or designee shall keep a record of this information and shall continue this follow-up.

10. In any case of sexual harassment involving the site administrator, compliance officer, or any other person to whom the incident would ordinarily be reported or filed, the report may instead be submitted to the County Superintendent or designee.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. He/she may pursue available civil law remedies outside of the County Office of Education's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code 262.3)

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)

3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) with 180 days of the alleged discrimination.

### **Enforcement**

The County Superintendent or designee shall take appropriate actions to reinforce the County Office of Education's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti.
2. Providing staff inservice and student instruction or counseling.
3. Notifying parents/guardians of the actions taken.

4. Notifying child protective services.
5. Taking appropriate disciplinary action. In addition, the site administrator (Title IX Coordinator) or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.