

Office of the Riverside County Superintendent of Schools
Administrative Regulation 4119.11, 4219.11, 4319.11 Sexual Harassment

PERSONNEL

SUBJECT: Sexual Harassment

The County Office of Education (County Office) does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

This administrative regulation shall apply to all allegations of sex discrimination and sex-based harassment by and against County Office employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

Title IX Coordinator

The County Office designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX in accordance with Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Compliant Procedures, and oversees the County Office's response to discrimination complaints processed under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

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Definitions

Sex discrimination includes treating an employee differently based on the employee's sex, which includes differential treatment based on sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or association with a person or group with one or more of these actual or perceived characteristics.

Sex discrimination, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when prohibited conduct is so severe, persistent, or pervasive that it creates an intimidating, threatening, hostile, or offensive work environment; has the effect of substantially or unreasonably interfering with an employee's term or condition of employment; or otherwise adversely affects an employee's employment opportunities.

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11).

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1. Quid pro quo harassment: A County Office employee, agent, or other individual authorized by the County Office to provide an aid, benefit, or service in the district's education program or activity conditioning the provision of County Office aid, benefit, or service on a student's participation in unwelcome sexual conduct.
2. Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the County Office's education program or activity. Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of County Office policy if it has a continuing effect on a student's ability to participate in or benefit from County Office educational programs or activities.
3. Sexual assault, dating violence, domestic violence, or stalking, as defined in 34 CFR 106.2.

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 regardless of whether or not the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 2 CCR 11034).

1. Submission to the conduct is made explicitly 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 the individual.
3. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs or activities available at or through the County Office.
4. 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.

Examples of Sex Discrimination and Sex-Based Harassment

Other examples of actions that might constitute sex-based harassment, under state and/or federal law in accordance with the definitions above, in the work or educational setting whether committed by a supervisor, coworker, or non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sex-based activity; sex-based jokes or stories; unwelcome sex-based slurs, epithets, threats, innuendoes, derogatory comments, sex-based degrading descriptions, or the spreading of sex-based rumors.

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2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; 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.

Training

The County Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sex- based harassment in accordance with State and federal law.

Every two years, the County Superintendent or designee shall ensure that supervisory employees receive at least two hours and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment. All such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the County Office, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The County Office's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws on the prohibition, prevention, and correction of sexual harassment, the remedies available for victims in civil actions, and potential County Office and/or individual exposure or liability.
2. The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources.
3. A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which the supervisor becomes aware and what to do if the supervisor is personally accused of harassment.

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4. Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint.
5. The essential elements of the County Office's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed.
6. A copy of the County Office's sexual harassment policy and administrative regulation, which participants shall acknowledge in writing that they have received.
7. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and others in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious.
8. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation.

The County Superintendent or designee shall ensure that all employees receive annual training related to their duties under Title IX in accordance with 34 CFR 106.8, and that a newly hired employee receive training promptly upon hire or change of position that alters the employee's duties under Title IX. (34 CFR 106.8)

The County Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR 11024)

1. The district's obligation to address sex-based discrimination, including sex-based harassment, in its education program or activity.
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment.
3. The notification and information requirements specified in 34 CFR 106.40 and 106.44.

The County Office's Title IX sex-based harassment training and education program shall also include additional training required of supervisors; investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and Title IX Coordinators and designees. (34 CFR 106.8)

Additionally, the County Superintendent or designee shall retain for at least seven years the materials used to provide training as specified in 34 CFR 106.8, and to make these materials

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available, upon request, to members of the public. (34 CFR 106.8)

Notifications

To prevent unlawful sex discrimination and sex-based harassment, including retaliation, in County Office programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

In addition to the measures to prevent discrimination as specified in Administrative Regulation 4030 - Nondiscrimination in Employment, the Superintendent or designee shall ensure that a copy of the Board policy and this administrative regulation:

1. Be displayed in a prominent location in the main administrative building or other area of the school/program where notices of County Office's rules, regulations, procedures and standards of conduct are posted.
2. Be provided to every County Office employee at the beginning of the first quarter or 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.
4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the County Office's web site. (34 CFR 106.8)
5. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations. (34 CFR 106.8)

All employees shall receive either a copy of information sheets prepared by the California Civil Rights Department (CRD) or a copy of County Office information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sex-based harassment.
2. The definition of sex-based harassment under applicable state and federal law.
3. A description of sex-based harassment, with examples.
4. The County Office's complaint process available to the employee.
5. The legal remedies and complaint process available through the CRD and Equal Employment Opportunity Commission.
6. Directions on how to contact the CRD and Equal Employment Opportunity Commission.

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7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC.

In addition, the County Office shall post, in a prominent and accessible location, CRD poster on discrimination in employment and the illegality of sex-based harassment. (Government Code 12950)

Complaint Procedures

All complaints and allegations of sex discrimination or sex-based harassment by and against employees shall be investigated and resolved in accordance with law and County Office's procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

If sex discrimination or sex-based harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the sex discrimination or sex-based harassment, prevent recurrence, and address any continuing effects.