

# Grossmont Union High

## Administrative Regulation

AR 4119.11

### Personnel

#### Sexual Harassment

#### Responsibility

The Assistant Superintendent, Human Resources, and the Human Resources Director, Classified, are hereby designated as the district's complaint officers, for their respective classes of personnel, for all matters related to supervision and enforcement of the district's sexual harassment policy.

The complaint officers are responsible for:

1. Monitoring the receipt of all informal and formal sexual harassment complaints.
2. Ensuring prompt and thorough review, investigation, and resolution of complaints.
3. Monitoring the outcome of complaints to ensure there is no subsequent harassment or retaliation.
4. Ensuring consistency in sanctions imposed for violation of the policy.
5. Ensuring that employees or others designed to investigate complaints are unbiased, credible, and sensitive as well as knowledgeable in the area of sexual harassment and investigating procedures.
6. Overseeing the notifications and training required by the policy and regulations.
7. Maintaining appropriate logs, records, and documentation of compliance with federal and state laws as well as district policy.

#### Enforcement

All district employees have an obligation to ensure that sexual harassment does not occur.

Each principal and supervisor has the responsibility of maintaining an educational and work environment free of sexual harassment. This responsibility includes the following:

1. Discussing the district's sexual harassment policy with his/her students and/or employees and assuring them that they are not required to endure sexually insulting,

degrading or exploitative treatment or any other form of sexual or gender based harassment.

2. Providing staff in-service to all employees including members of the Governing Board on an annual basis regarding the district's policy on sexual harassment. A copy of the supervisor's plan for staff in-service will be kept on file at the work site and the district office (for staff in-service for Board members).
3. Acquainting new employees in the district with this policy.
4. Taking prompt action to report and resolve complaints of sexual harassment.
5. Taking appropriate disciplinary action as needed.
6. In addition, each principal and supervisor shall instruct employees on the procedure for reporting sexual harassment within the educational setting on an as needed basis.

#### Notifications

A copy or facsimile of the district's policy on sexual harassment shall:

1. Be displayed in a prominent location near each school principal's office or in some other prominent location at each work site.
2. Be provided to each district 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 district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct.

All employees shall receive a copy of information sheets prepared by the California Department of Fair Employment and Housing or a copy of district 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 district's complaint process available to the employee
5. The legal remedies and complaint process available through the Fair Employment and Housing Department and Commission
6. Directions on how to contact the Fair Employment and Housing Department and

## Commission

7. Information that the complaint officers will be available to answer all questions about this policy or its implementation
8. A copy of the sexual harassment policy will be in the Board policy bylaws and be presented in the New Board Member Orientation.

## Guidelines for Reporting, Investigating, and Resolving Complaints

### 1. General Provisions.

A. Any questions regarding these guidelines should be directed to the Assistant Superintendent, Human Resources, the Human Resources Director Classified, or the Superintendent.

### B. Reporting

(1) The Board encourages and expects employees to immediately report incidents of sexual harassment to their principal, supervisor, or the district complaint officers. Employees observing or knowing about instances of sexual harassment are obligated to report them, just as they are obligated to report other instances of improper behavior.

(2) Any supervisor who receives a report, verbally or in writing, from any employee regarding alleged sexual harassment of that employee by another employee, Board member, or nonemployee doing business with the district, or student in the work setting, must notify the appropriate complaint officer within 24 hours or within a reasonable extension of time thereafter for good cause. Failure to report sexual harassment may result in disciplinary action.

(3) No employee shall be required to report an allegation of sexual harassment to the individual who is the alleged harasser. If the alleged harasser is the employee's supervisor, the complaint should be taken to a complaint officer.

(4) If a complaint officer is a party to the complaint, then the complaint should be filed with the Superintendent. The Superintendent will then act in his/her stead for the purposes of this policy.

(5) If the Superintendent is a party to the complaint, then the complaint should be filed with the President of the Board.

(6) If a member of the Board is a party to the complaint, then the complaint should be filed with the Superintendent.

### C. Time Lines

Problems or complaints should be reported as soon as possible after an incident or pattern of offensive conduct is deemed unwelcome. The district strongly recommends that requests for intervention or initiation of complaints take place immediately in order to aid the district in the timely resolution of the problem and to talk with parties and witnesses (if necessary) while memories are fresh. However, due to the fact that the offensive conduct or behavior may be illegal, all complaints will be reviewed by a complaint officer, regardless of time of filing.

The district reserves the right to extend any time lines established in these regulations when necessary to conduct a thorough investigation or otherwise fairly resolve a complaint.

#### D. Filing a Complaint

The following may file a complaint alleging illegal sexual harassment:

- (1) Any employee or applicant for employment who feels that he/she has been harassed in violation of the district's sexual harassment policy;
- (2) A third party if the sexual or gender based conduct of others in the work environment has the purpose or effect of substantially interfering with the third party's welfare or work performance; or
- (3) A complaint officer.

PLEASE NOTE: Even if a complainant chooses to drop the complaint, the district has an affirmative duty to review, investigate, and take appropriate action when there is suspected illegal conduct.

#### E. Respect for Privacy

The district recognizes that privacy is important to all parties involved in a sexual harassment investigation. To the extent practical and permitted by law, the privacy interests of the complainant, respondent, and witnesses will be protected. Employees interviewed in accordance with this are directed to assist in maintaining such confidentiality.

If a sexual harassment complaint is filed against an elected member of the Board, the elected Board member is not guaranteed a privacy interest as a government official. As an elected government official a Board member who engages in acts of sexual harassment is subject to public disclosure.

#### F. Cooperation

All employees have a duty to cooperate in any investigation conducted pursuant to these administrative regulations and to respond truthfully to all inquiries.

## G. Retaliation

The district will not tolerate retaliation or reprisals against any individual for initiation, pursuit, or assistance with a complaint of suspected sexual harassment. Any employee who retaliates against any individual in violation of the policy dealing with sexual harassment and/or these administrative regulations may be subject to disciplinary action.

(1) The Board may call for a public apology from a Board member who is found to have engaged in acts of sexual harassment or who engages in acts of retaliation or reprisals against any district employee who initiates, pursues, or assists with a complaint of suspected sexual harassment at the advice or recommendation of legal counsel.

(2) The Board may call for a public censure of a Board member who has been found to have engaged in acts of sexual harassment or who retaliates against any district employee who initiates, pursues, or assists with a complaint of suspected sexual harassment at the advice or recommendation of legal counsel.

(3) The Board may call publicly for the resignation from office or for the recall, by the public, from public office a Board member who has been found to have engaged in acts of sexual harassment or in acts of retaliation or reprisals against any district employee who initiates, pursues, or assists with a complaint of suspected sexual harassment at the advice or recommendation of legal counsel.

## H. Representation

The complainant and the respondent may be assisted by a representative of their choice at any stage of these proceedings.

### I. Record Keeping

The district will maintain written records of complaints lodged or filed and investigative reports, when necessary, and the final resolution of each matter. Copies of all written material that could be used in future disciplinary action will be submitted to the employee involved with the opportunity to provide a written response to be attached to the complaint record.

## 2. Options for Handling Complaints

### A. In General

(1) The district offers several alternatives for dealing with sexual harassment problems. Those listed below begin with the most informal suggestions and procedures and continue through a formal complaint process. Employees and applicants for employment are encouraged to resolve complaints at the most informal level possible.

(2) The immediate supervisor, principal, or complaint officers shall assist employees or applicants for employment in determining which option will best serve to resolve the problem.

(3) There is no requirement that an individual attempt to handle the problem himself/herself or make use of the informal procedures outlined below. Employees or applicants for employment who feel that they have been illegally harassed in violation of the district's sexual harassment policy may initiate the complaint procedure at the formal level at any time.

## B. Informal Procedures

### (1) Request for Intervention

Employees or applicants for employment are encouraged to consult with their principal, supervisor, or a complaint officer if they are uncertain as to how to deal with offensive behavior, or if they want the help of a complaint officer in any regard. If the alleged action falls within the jurisdiction of this policy, and the alleged behavior is not of a nature that would warrant further investigation, the person who is alleged to have committed the offensive behavior will be contacted by the complaint officer. The complaint officer will describe the behavior and request that this behavior cease. If awareness of the offensive nature of the behavior resolves the complaint, no further action will necessarily be taken.

### (2) Informal Complaints

Any employee or applicant for employment may lodge an informal complaint with his/her principal, supervisor, or a complaint officer. If the complainant and the respondent appear willing to resolve the complaint informally, the complaint officer or designee will attempt informal resolution. Depending on the situation, the complaint officer or designee may:

- (a) Bring both parties together, if both parties are willing, to discuss the complaint and mediate resolution;
- (b) Serve as an intermediary between the complainant and the respondent; and/or;
- (c) Present a settlement proposal for consideration by the complainant and the respondent which resolves the complaint;
- (d) Investigate to the extent necessary to resolve the problem.

Informal complaints should be resolved expeditiously. 30 days is a desirable, but not absolute, time period for resolution.

The complaint officer or designee will prepare a written summary of the complaint and

its resolution (or the attempts at resolution). This summary will be provided to the parties and maintained in the appropriate complaint resolution files of the district.

If such informal attempts to resolve the complaint are unsuccessful, or the complaint officer feels that an informal complaint is inappropriate, the complainant or the complaint officer can begin the formal process.

### C. Formal Complaints

#### (1) Filing

A formal written complaint may be filed by any employee, applicant for employment, or a complaint officer, and it should be filed expeditiously. A complaint form must be filed with the district within 180 days of the incident or pattern of offensive conduct. If the complainant has attempted to resolve the complaint informally, the formal written complaint must be filed within 10 working days of the failure of that attempt. The complaint officer or designee will advise both parties in filling out the complaint form or the response. Complaint forms are available through any principal, supervisor, or complaint officer. The complaint officer or designee will also provide the parties with copies of the district's sexual harassment policy and Administrative Regulations.

#### (2) Notification of the Respondent

The complaint officer or designee will serve a copy of the complaint to the respondent within five working days of its filing with the district. The respondent has 10 working days after receipt of the complaint to respond in writing to the complaint officer or designee. The complainant will then be contacted and given a copy of the response.

#### (3) Mediation

If the complaint is of a nature that would not warrant further investigation, the complaint officer or designee may suggest mediation to the parties. If the complainant and the respondent both agree to attempt to mediate the complaint, the complaint officer or designee will arrange mediation. If mediation resolves the complaint, a copy of the outcome is given to both parties and will be placed in the appropriate complaint resolution files of the district. If the mediation does not resolve the complaint within 30 days, or if either party does not agree to mediation, the complaint officer or designee will begin the formal investigation of the matter.

#### (4) Investigation

The complaint officer or designee has 60 days from the time the complaint is filed in which to complete an investigation. If the initial investigation reveals that the matter will take longer than 60 days for a thorough investigation, the investigator will file a request for a waiver of the time limit with the Superintendent.

The complaint officer or designee will inform the complainant and respondent of rights and obligations under any relevant complaint procedure, policy, or collective bargaining agreement.

Both the complainant and the respondent will be asked for all documents or evidence they have pertaining to the complaint, and a list of people who they feel have knowledge of the behavior alleged in the complaint. The investigator will contact these people and any others who might have relevant knowledge of the matters and issues raised in the complaint, as well as witnesses and/or victims of similar conduct by the respondent. Witnesses should include those with firsthand knowledge of the events, or persons to whom the parties spoke shortly after the incident(s) occurred. Statements about a person's character should not be part of the investigation or subsequent procedures.

The investigation is to be conducted impartially and in a gender sensitive manner. When appropriate, an investigator or interviewer of the same gender as the witness will be assigned.

#### (5) Findings

The complaint officer or designee will review the factual information gathered through the investigation. Decisions as to whether or not the alleged behavior(s) occurred will be based on a preponderance of evidence standard, that is, a reasonable person would assume that the event(s) did or did not occur, given the preponderance of the evidence. The complaint officer or designee will make a determination as follows for each factual allegation in the complaint:

- The investigation results substantiate the allegation; or;
- The investigation results do not substantiate the allegation; or;
- The investigation results are indeterminate and not able to substantiate the allegation.

The complaint officer or designee will consider the factual findings and make a determination as to whether illegal harassment has occurred, giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical or visual aspects of the conduct, and the context in which the alleged incident(s) occurred. The complaint officer or designee may also make a determination that the behavior, although insufficient to support a finding of illegal sexual harassment, is nevertheless inappropriate or unprofessional, and if continued, could lead to a finding of illegal harassment.

The complaint officer or designee will prepare a written report containing the factual findings, determinations, and recommendations for action within 10 days from the conclusion of the investigation.

#### (6) Subsequent Action

If illegal harassment or other inappropriate conduct has occurred, the complaint officer or designee will take and/or recommend to the Board prompt and effective remedial action. The action will be commensurate with the severity of the offense.

The complaint officer or designee will communicate the findings of the investigation and the action taken, if any, to the complainant and respondent as expeditiously as possible.

(a) If illegal harassment or inappropriate behavior has occurred, the complaint officer or designee will take reasonable steps to protect the complainant and other potential victims from further harassment.

(b) The complaint officer will take reasonable steps to protect the complainant and witnesses from any retaliation as a result of communicating the complaint or being involved in the investigation process.

(c) Appropriate action will be taken whenever possible to alleviate the effects of the harassment.

#### (7) Review Process

##### Review by the Superintendent

If either the complainant or respondent are dissatisfied with the outcome of the investigation, findings, determinations or subsequent action, s/he may submit a request for a review of the investigation, findings, determinations, or subsequent action to the Superintendent within 10 working days from receipt of the decision of the complaint officer or designee.

The request for review should indicate with specificity the basis for a request for review.

The Superintendent will review the complaint officer's or designee's report and all written materials upon which the report is based. The Superintendent will conduct further investigation if warranted and prepare a written decision within 30 days of receipt of the request for review. This decision will either uphold, modify, or dismiss the findings, determinations, and action taken by the complaint officer or designee.

##### Review by the Board

If either the complainant or respondent are dissatisfied with the decision of the Superintendent, s/he may submit a request for a review of the decision within 10 working days from receipt of the decision of the Superintendent.

The request for review should indicate with specificity the basis for a request for review.

The Board will review the complaint officer's or designee's report and all written materials upon which the report is based, as well as the Superintendent's decision and all

written materials upon which this decision is based. The Board may, at its discretion, conduct further investigation if warranted. (The Board, at its discretion, may conduct a hearing on the matter in closed session.) Within 30 days of receipt of the request for review, the Board will issue a written decision. This decision will either uphold, modify, or dismiss the findings, determinations, and action taken by the Superintendent.

The Board will notify the parties of their rights pursuant to Education Code 262.3(a).

### Sanctions

If there is a determination that sexual harassment or other inappropriate behavior has occurred, the district will impose sanctions commensurate with the severity of the misconduct. These sanctions may include, but are not limited to, the following:

- Training
- Verbal warning
- Written warning
- Formal reprimand
- Transfer or reassignment of duties
- Suspension with or without pay
- Demotion
- Dismissal

### Disciplinary Action

Any disciplinary action required by the outcome of the investigation of a complaint will not be taken until the procedures described in these regulations have been completed. Due process will be observed in conformity with provisions of state law, any applicable collective bargaining agreement, and district policy.

For the purposes of this policy, placement on home assignment or paid administrative leave shall not be considered disciplinary action.

### Groundless or Malicious Charges

Accusations of sexual harassment are of the utmost seriousness. They should never be made casually and without cause. Disciplinary action concerning personal misconduct may be taken under the appropriate personnel policies against any person bringing a groundless and malicious charge of sexual harassment. Bringing false charges may also result in civil liability for the person filing the charges.

### Reporting to Outside Agencies

1. Federal Equal Employment Opportunity Commission.

Employees who have been sexually harassed may have the right to file complaints with

federal regulatory agencies. Time limits for filing complaints with the federal regulatory agencies vary. The employee should check directly with this agency for specific instructions for filing a complaint:

Equal Opportunity Commission  
401 B Street, Suite 1550  
San Diego, CA 92101  
(619) 557-7235

2. State of California Department of Fair Employment and Housing.

Employees who have been sexually harassed may have the right to file complaints with the Department of Fair Employment and Housing (DFEH). Time limits for filing complaints with DFEH should be checked with the agency.

Department of Fair Employment and Housing  
110 West "C" Street, Suite 1702  
San Diego, CA 92101-3901  
(619) 645-2681

3. Parties to a written complaint of prohibited discrimination may appeal the action taken by the Board of a district to the State Department of Education. (Education Code 262.3, Subdivision (a))

4. Persons who have filed complaints of sexual harassment may have certain civil law remedies available to them, including, but not limited to, injunctions, restraining orders, or other civil orders. (Education Code 262.3, Subdivision (b))

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