

Grossmont Union High

Board Policy

BP 4119.11

Personnel

Sexual Harassment

The District is committed to having a positive learning and working environment for its students and employees. The Governing Board therefore prohibits sexual harassment of District employees, applicants for employment, or students by any employee or nonemployee who conducts business with the District. This policy applies to conduct during and relating to school, school-sponsored activities, and District business. The Board recognizes that sexual harassment in the work and educational environment is not only inappropriate and offensive, it is illegal. Sexual harassment will not be condoned or tolerated.

Definition of Sexual Harassment

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual, or physical conduct of a sexual or gender-based nature made by someone from or in the work or educational setting, when:

1. Submission to the conduct is explicitly or implicitly made a term or condition of any individual's employment or educational program; and/or,
2. Submission to or rejection of such conduct by an individual is used as the basis for an employment or educational decision affecting the individual; and/or,
3. The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment, or of adversely affecting the student's or employee's performance, evaluation, advancement, assigned duties, or any other condition of education, employment, or career development.
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, assignment, programs, or activities available in the work environment or through the educational institution.

Recognizing Sexual Harassment

Examples of conduct which may constitute sexual harassment, whether committed by a supervisor, any other employee or nonemployee doing business with the District, are:

- Ñ Unwelcome leering, sexual flirtations or propositions
- Ñ Unwelcome sexual or gender-based slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
- Ñ Unwelcome graphic verbal comments about an individual's body, or overly personal conversation
- Ñ Unwelcome questions or commentary about a person's sexual activity
- Ñ Unwelcome sexually suggestive sounds or gestures, such as sucking noises, winking, or throwing kisses
- Ñ Unwelcome sexual or gender-based jokes, stories, innuendoes, drawings or pictures
- Ñ Unwelcome spreading of sexual rumors
- Ñ Unwelcome touching, patting, pinching, stroking, squeezing, tickling, or brushing against a person
- Ñ Cornering or blocking of normal movements; stalking
- Ñ Rating a person's sexuality or attractiveness, as on a scale of one to ten
- Ñ Displaying sexually suggestive objects in the educational or work environment
- Ñ Name calling, denigrating an individual because of gender
- Ñ Insulting or belittling a person because of his/her actual or perceived sexual orientation
- Ñ Sexist or stereotyped comments
- Ñ Any act of retaliation against an individual who reports a violation of the District's sexual harassment policy or who participates in the investigation of a sexual harassment complaint

Nature of Sexual Harassment

Sexual harassment may occur:

- Ñ student to student

- Ñ staff to student
- Ñ student to staff
- Ñ male to male
- Ñ female to female
- Ñ male to female
- Ñ female to male
- Ñ staff to staff

Intent

The fact that someone did not intend to sexually harass an individual is generally not considered a defense to a complaint of sexual harassment. In most cases, it is the effect and characteristics of the behavior that determine if the behavior constitutes sexual harassment.

Discipline/Consequences

Any employee who permits or engages in the sexual harassment of anyone in the school setting may be subject to disciplinary action up to and including dismissal. The District's ability to discipline a nonemployee will be limited by the degree of control the District has over the alleged harasser or employer of the alleged harasser.

Reporting Complaints

Any employee or applicant for employment who feels that he/she, or another individual in the District, is being sexually harassed should immediately contact his/her supervisor or principal. If the supervisor is the cause of the complaint, the employee should report the concern directly to a complaint officer. 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.

Any supervisor or principal who receives a harassment complaint shall notify a complaint officer who shall ensure that the complaint is appropriately resolved in conformity with the Guidelines for Reporting, Investigating, and Resolving Complaints, described in Administrative Regulation 4119.11.

Any employee or applicant for employment may directly file a formal complaint in accordance with the Formal Complaint Procedure described in Administrative Regulation 4119.11.

Retaliation Prohibited

Retaliation against (1) anyone reporting or thought to have reported sexual harassment or (2) anyone participating in the investigation or resolution of a complaint is prohibited. Such retaliation shall be considered a serious violation of the policy and shall be independent of whether a charge or informal complaint of sexual harassment is substantiated. Encouraging or condoning retaliation by others also violates the policy.

The initiation of a complaint of sexual harassment will not reflect negatively on the employee who initiates the complaint, nor will it affect the employee's job assignment, status, rights, privileges, or benefits.

Any employee who retaliates against any individual who has made a complaint of sexual harassment, or participated in an investigation of a complaint of sexual harassment, will be subject to disciplinary action up to and including dismissal.

Any nonemployee doing business with the District who retaliates against any individual who has made a complaint of sexual harassment, or participated in an investigation of a complaint of sexual harassment, will be disciplined subject to the extent that the District has control over the nonemployee or his or her employer.

Privacy

Each complaint of sexual harassment shall be promptly investigated in a way that respects the privacy of all parties concerned to the extent permitted by law and to the extent it does not interfere with the District's ability to investigate and take corrective action.

Legal Reference

EDUCATION CODE

200-240 Prohibition of discrimination on the basis of sex

212.5 Sexual harassment, defined

212.6 Sexual harassment policy

230 Particular practices prohibited

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

UNITED STATES CODE, TITLE 42

2000d & 2000e et seq. Title VI & Title VII, Civil Rights Act of 1964 as amended

2000h-2 et seq. Title IX, 1972 Education Act Amendments

Meritor Savings Bank, FSB v Vinson et al. (1986)

477 U.S. 57

Policy GROSSMONT UNION HIGH SCHOOL DISTRICT

adopted: October 21, 1993 La Mesa, California

revised: October 20, 1994

revised: February 15, 1996

revised: June 3, 1999