

**All Personnel**

**SEXUAL HARASSMENT**

The Board of Trustees prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation and correction of sexual harassment, including but not limited to:

1. Providing training to all employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to staff
3. Ensuring prompt, thorough and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial actions, which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

Any district employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any instance of sexual harassment by another or against another employee, a job applicant, or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any district employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a district employee, job applicant, or student, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

**SEXUAL HARASSMENT (continued)**

*Legal Reference:*

**EDUCATION CODE**

*200-262.4 Prohibition of discrimination on the basis of sex*

**GOVERNMENT CODE**

*12900-12996 Fair Employment and Housing Act, especially:*

*12940 Prohibited discrimination*

*12950.1 Sexual harassment training*

**LABOR CODE**

*1101 Political activities of employees*

*1102.1 Discrimination: sexual orientation*

**CODE OF REGULATIONS, TITLE 2**

*7287.8 Retaliation*

**CODE OF REGULATIONS, TITLE 5**

*4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance*

**UNITED STATES CODE, TITLE 42**

*2000d-2000d-7 Title VI, Civil Rights Act of 1964*

*2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended*

*2000h-2-2000h-6 Title IX, 1972 Education Act Amendments*

**CODE OF FEDERAL REGULATIONS, TITLE 34**

*106.9 Dissemination of policy*

**COURT DECISIONS**

*Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026*

*Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275*

*Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257*

*Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989*

*Oncala v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998*

*Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57*

*Management Resources:*

**OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL**

*Protecting Students from Harassment and Hate Crime, January, 1999*

**WEB SITES**

*California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>*

*Equal Employment Opportunity Commission: <http://www.eeoc.gov>*

*U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>*

Policy

Adopted: May 9, 1995

Revised: October 10, 2005

Reviewed: October 26, 2009

**FALLBROOK UNION HIGH SCHOOL DISTRICT**

Fallbrook, California

**All Personnel**

**SEXUAL HARASSMENT**

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 sex, in the work or educational setting, when (Education Code 212.5; 5 CCR 4916):

1. Submission to the conduct is made expressly or implicitly, a term or condition of the individual's employment
2. Submission to or rejection of such conduct by the other individual is used as the basis for an employment decision affecting him/her
3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs or activities available at or through the district

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, a co-worker or a non-employee, in the work or educational setting, include but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit e-mails; 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

Prohibited sexual harassment may also include 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.

**SEXUAL HARASSMENT (continued)**

**Training**

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

The district's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state statutory law on the prohibition against and the prevention and correction of sexual harassment and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1; 2CCR 7288.0)

In addition, the Superintendent or designee shall ensure that all employees receive periodic training regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.

**Notifications**

A copy of the Board of Trustees' policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first 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 either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of sexual harassment
2. The definition of sexual harassment under applicable state and federal law

**SEXUAL HARASSMENT (continued)**

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 DFEH and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by DFEH and the EEOC

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment.

**Regulation**

Adopted: May 9, 1995

Revised: October 10, 2005

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Fallbrook, California