

## **SEXUAL HARASSMENT**

### **I. Purpose**

The purpose of this regulation is to:

- A. Establish procedures to prohibit the sexual harassment of any student or employee as part of the District's continuing efforts to ensure full equal employment opportunity, in conformance with Title IX of the Education Amendments Act of 1972 and Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Opportunity Commission, and the regulations issued by the California Fair Employment and Housing Commission.
- B. Define sexual harassment, list the responsibilities of the administration to staff members and students in promoting a sexual harassment-free workplace, and to establish a due process for resolving complaints of sexual harassment.
- C. Ensure that all employees and students may file allegations of sexual harassment and investigations will be carried forth in a confidential manner and without fear of retaliation.

### **II. Responsibility**

- A. This policy applies to all District students and District staff members, including management, supervisory, and non-supervisory employees. Each administrator is responsible for ensuring that the work environment is free from all types of unlawful discrimination, including sexual harassment. Site administrators and supervisors are responsible for taking prompt, appropriate action within the work and educational environment to avoid and minimize the incidence of sexual harassment. Individual employees may be held personally liable for acts of sexual harassment and should therefore be advised by the employee's supervisor as to what constitutes harassment.
- B. Sexual harassment shall be reported to the immediate supervisor, or a site administrator, as appropriate. The administrator or supervisor receiving the complaint shall commence an investigation.
- C. Any employee having knowledge of conduct by another employee, volunteer, or individual in the school community which may constitute sexual harassment of students is required to immediately report such conduct to any of the individuals specified in this regulation. In addition, any supervisor aware of conduct in violation of this regulation shall immediately report such conduct to a site administrator.

- D. Employees are hereby placed on notice that if an employee engages in acts which the District determines to be acts of sexual harassment, such acts are outside of the scope and course of the employee's employment. Such conduct may result in the employee having to obtain his or her own legal counsel, and sexual harassment or unlawful discrimination may result in a money judgment against the employee personally.

### III. Definition of Sexual Harassment

- A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or advancement;
  2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  3. Such conduct has the purpose or effect of unreasonable interference with an individual's work performance or the creation of an intimidating, hostile, or offensive environment.
- B. One or more of the activities listed below constitute sexual harassment:
1. Comments repeatedly emphasizing the sexuality or sexual identity of an individual;
  2. Persistent requests for social-sexual encounters and favors;
  3. Physical contact of a lewd type;
  4. Indecent exposure;
  5. Realized sexual encounters; and
  6. Sexual crimes including rape.

Sexual harassment also occurs when one or more activities listed above (1-6) are accompanied by one or more of the following terms or conditions:

- a. Explicit or implicit promises of rewards for cooperation via misuse of institutional authority; e.g., to affect a subordinate's admission/employment, evaluation, academic achievement, financial aid/salary, grades, graduation, etc.
- b. Explicit or implicit threats of punishment for non-cooperation via misuse of institutional authority; e.g., to affect a subordinate's admission/employment, evaluation, academic advancement, financial aid/grades, graduation, etc.

- c. Intimidation which creates a hostile or offensive academic environment; interferes with an individual's scholastic performance; prevents an individual's full enjoyment of an educational opportunity; or induces conformance, stress, anxiety, fear, or sickness on the part of the harassed person.

Implicit in the legal definition of sexual harassment is the assumption that sexual harassment may prevent the realization of the victim's full potential as a student or employee. In the case of a student, a person in a responsible office sexually harassing a student is thus robbing the victim of the freedom to learn. Sexual harassment, then, is considered unethical and unprofessional as well as illegal behavior.

Private, personal conduct may at some point become unwelcome. Any employee or student advised that the co-employee or fellow student now believes certain conduct is unwelcome shall cease such conduct immediately. Any conduct of a sexual nature following such notice may be determined to be sexual harassment. Such conduct is subject to investigation by the employer on the complaint of the individual who believes the conduct to be unwelcome.

Employees or students who participate in a consensual relationship, and at some point wish to discontinue the relationship, must clearly tell or write to the other participant that the conduct is no longer consensual or welcome, and that all such conduct must cease.

#### IV. Resolution Process

##### A. General

Time limits established in the resolution process may be extended, at the respective level(s), by mutual agreement of the individual and the person against whom the complaint is addressed.

No retaliation of any kind will occur against a student or his/her parent, or an employee, due to the making of a sexual harassment complaint.

An effort will be made to protect the privacy of the parties involved in a complaint. Files which pertain to complaints handled under the informal process shall be kept confidential and will not be made available to the general public.

Sexual relationships between an employee and a student under the age of eighteen are subject to criminal sanctions, and shall be reported as child abuse. Employees who engage in sexual relationships with students subject themselves to dismissal.

Any employee who has knowledge of conduct by another employee, volunteer, or individual in the school's community which may constitute sexual harassment of students is

Fullerton Joint Union High School District  
**AR 5645.1(d)**

required to immediately report such conduct to any site administrator, director, or supervisor. In addition, any manager or supervisor who is aware of conduct in violation of this policy shall immediately report such conduct to a site administrator.

**B. Informal Process**

To accommodate the unique nature of sexual harassment complaints, an informal process is provided for the primary purpose of resolution of a complaint at the earliest possible date.

1. Process for complaints by students. The elements of this process are:
  - a. The site principal, or an assistant principal, will be available to receive sexual harassment complaints. Functions of these individuals will be to:
    - (1) Counsel the student and outline the options available.
    - (2) Obtain a factual written statement of the complaint.
    - (3) Assist in follow-up investigation, interviewing the accused, witnesses, and supervisor as appropriate, and recommending the disposition of the complaint.
  - b. The site principal and the Assistant Superintendent, Education and Assessment Services, or designee, will review the factual information collected to determine whether the alleged conduct constitutes sexual harassment, giving consideration to the record as a whole and the totality of the circumstances, including the nature of the sexual advances and the context in which the alleged incidents occurred, and will take and/or authorize appropriate action.
  - c. If a sexual relationship develops between a teacher and a student, the responsibility for grading, evaluation, and supervision of the student will be transferred promptly to another teacher.
2. Process for complaints by employees. The elements of this process are:
  - a. The site principal, administrator, director, or supervisor will be available to receive sexual harassment complaints. Functions of these individuals will be to:
    - (1) Counsel the complainant and outline the options available.
    - (2) Obtain a factual written statement of the complaint.

- (3) Assist in follow-up investigation, interviewing the accused, witnesses and supervisor as appropriate, and recommending the disposition of the complaint.
- b. The site administrator and the Director, Human Resources, or designee, will review the factual information collected to determine whether the alleged conduct constitutes sexual harassment, giving consideration to the record as a whole and the totality of circumstances, including the nature of the sexual advances and the context in which the alleged incidents occurred, and will take and/or authorize appropriate action.

### C. Formal Process

If the complaint is not resolved to the satisfaction of the individual in the informal process, the following formal procedures are available:

1. Process for complaints by students. The elements of this process are:
  - a. The complaint shall be reduced to writing and sent to the Superintendent, or designee, within ten working days of the completion of the informal process.
  - b. The Superintendent, or designee, shall investigate the complaint and respond within ten working days after receipt of the complaint.
  - c. If the complaint is substantiated, this administrative regulation prohibiting harassment will be reviewed with the offender. Based upon the degree of severity of a proven incident, appropriate disciplinary action will be taken, up to and including expulsion of a student, or dismissal, if the offender is an employee.
  - d. If a complaint of sexual harassment is not substantiated, the person filing the complaint will be counseled regarding the potential impact of a false accusation on his/her career/reputation and the career/reputation of the accused. The accused should be notified that the complaint was not substantiated; however, both will be cautioned as to the sensitivity of the situation.
2. Process for complaints by employees. The elements of this process are:
  - a. The complaint shall be reduced to writing and sent to the Superintendent, or designee, within ten working days of the completion of the informal process.
  - b. The Superintendent, or designee, shall investigate the complaint and respond within ten working days after receipt of the complaint.
  - c. If the complaint is substantiated, this administrative regulation prohibiting harassment will be reviewed with the offender. Based upon the degree of sever-

Fullerton Joint Union High School District  
**AR 5645.1(f)**

ity of a proven incident, appropriate disciplinary action will be taken, up to and including termination of an employee, or expulsion of a student.

- d. If a complaint of sexual harassment is not substantiated, the person filing the complaint will be counseled regarding the potential impact of a false accusation on his/her career/reputation and the career/reputation of the accused. The accused should be notified that the complaint was not substantiated; however, both will be cautioned as to the sensitivity of the situation.

V. Notifications

A. A written copy of the District's policy on sexual harassment shall:

1. Be displayed in prominent location(s) at each District site.
2. Be provided to each faculty member, administrative staff members, and support staff members at the beginning of the first semester of the school year and, thereafter, whenever a new employee is hired.
3. Appear in any school or District publication that sets forth the school or District's comprehensive rules, regulations, procedures, and standards of conduct.
4. A copy of the policy, as it pertains to students, shall be provided as part of any new student orientation program.
5. A copy of the written policy shall be included in the annual notifications to parents, sent at the beginning of the first term of the school year.

Regulation approved: May 10, 1993; March 22, 1999; September 12, 2000; September 6, 2005