

PERSONNEL

SUBJECT: Sexual Harassment

This administrative regulation shall apply to all allegations of sexual harassment involving 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 of Education designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as well as to investigate and resolve sexual harassment complaints under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

Dion Clark, Executive Director
Division of Personnel Services
3939 Thirteenth Street, Riverside, CA 92501
(951) 826-6653
dlclark@rcoe.us

Definitions

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 of Education.
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.

(cf. 4030 - Nondiscrimination in Employment)

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that

occurs in an education program or activity in which a County Office of Education school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A County Office of Education employee conditioning the provision of a County Office of Education aid, benefit, or service on the person's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the County Office of Education's education program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291.

(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)

Examples of Sexual Harassment

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, coworker, or non-employee, 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 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

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 of Education, 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)

(cf. 4300 - Administrative and Supervisory Personnel)

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 training 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 to sexual harassment victims in civil actions, and potential County Office of Education 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.
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 of Education'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 of Education'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 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)

Notifications

The Superintendent or designee shall notify employees that the County Office of Education does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the County Office of Education may be referred to the County Office of Education Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

The County Office of Education shall notify employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the County Office of Education's Title IX Coordinator. (34 CFR 106.8)

A copy of the County Office of Education's policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building or other area of the school/program where notices of County Office of Education's rules, regulations, procedures and standards of conduct are posted.
2. Be provided to every County Office of Education 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 of Education publication that sets forth the school's or County Office of Education'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 of Education'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 Department of Fair Employment and Housing or a copy of County Office of Education 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.

3. A description of sexual harassment, with examples.
4. The County Office of Education's complaint process available to the employee.
5. The legal remedies and complaint process available through the Fair Employment and Housing Department and Equal Employment Opportunity Commission.
6. Directions on how to contact the Fair Employment and Housing Department and Equal Employment Opportunity Commission.
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 DFEH and the EEOC.

In addition, the County Office of Education shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

Complaint Procedures

All complaints and allegations of sexual harassment by and against employees shall be investigated and resolved in accordance with law and County Office of Education'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 Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 - Nondiscrimination in Employment.

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