

Sexual Harassment

Board Policy and Administrative Regulation

All Employees and Volunteers

The district prohibits sexual harassment in the work place and shall act promptly, visibly and vigorously in demonstrating strong disapproval of sexual harassment in the work place. The superintendent or designee shall develop appropriate procedures to ensure that employees have a work place free of sexual harassment and to provide a mechanism for resolution of complaints of sexual harassment. See District Administrative Procedure 7110.

San Diego Unified School District (SDUSD) is committed to providing its employees, volunteers, and students with an environment that is free of sexual harassment. Sexual harassment is strictly prohibited by the district and is against state and federal laws.

The purpose of this publication is to ensure that all district employees and volunteers know:

- that sexual harassment is strictly prohibited by SDUSD and by federal and state laws;
- what sexual harassment is;
- the procedures to handle complaints of sexual harassment;
- that SDUSD, and federal and state laws prohibit retaliation for reporting sexual harassment. Please note that you may report such activities even though you are not the target of the harassment;
- that if you, as an employee, are found guilty of sexual harassment, you may be personally liable for monetary damages. SDUSD will not pay damages assessed against you personally and

you will be subject to discipline.

Definition of Sexual Harassment

Pursuant to Education Code section 212.5, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, status, or promotion.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee.
3. The harassment substantially interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.
4. Submission to, or rejection of, the conduct is the basis for a decision affecting benefits, services, honors, programs, or other available activities.

Examples of Sexual Harassment

Some examples of sexual harassment are:

1. Making unsolicited written, verbal or physical contact with sexual overtones.
2. Visual conduct: leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, or posters.
3. Verbal conduct: making or using derogatory comments, epithets, slurs, and jokes.
4. Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations.
5. Physical conduct: touching, assault, impeding or blocking movements.
6. Continuing to express sexual interest after being informed that the interest is

unwelcome. (Consent or reciprocal attraction is not considered sexual harassment.)

7. Making reprisals, threats of reprisal, or implied threats of reprisal following negative response. For example, either implying or actually withholding support for an appointment, promotion or change of assignment; suggesting a poor performance report will be prepared; or suggesting probation will be failed.
8. Engaging in implicit or explicit coercive sexual behavior which is used to control, influence or affect the career salary and/or work environment of another employee.
9. Offering favors or employment benefits, such as promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations or reclassifications, in exchange for sexual favors.

COMPLAINT PROCESS

San Diego Unified School District strongly encourages its employees and students to report any incidents of sexual harassment **immediately** so that complaints can be quickly and fairly resolved. If you have a complaint, the following procedure is appropriate:

1. When possible and/or practical, speak to the harasser and persuade him/her to stop. The harasser may not realize the advances or behaviors are offensive. Sometimes a simple conversation will end the situation.
2. If you do not wish to speak to the harasser, report incidents of sexual harassment to any supervisor, manager, or administrator at the school site or in the department where you are working. If there is no supervisor, manager, or administrator to whom the employee is comfortable reporting the incident, the report may be made to the next higher level in the chain of command.
3. Any supervisor, manager, or administrator who has received a report, verbally or in writing, from any employee regarding sexual harassment of that employee or another employee by an

adult in the workplace must forward the report to the appropriate Human Resources Officer.

4. All complaints of sexual harassment will be investigated and promptly resolved.
5. Upon receipt of an allegation of sexual harassment, the appropriate Human Resources Officer will designate an investigator who will initiate an investigation into the complaint.

RECORDS

Copies of all reports of sexual harassment shall be forwarded to the appropriate Human Resources Officer who will be responsible for maintaining overall district records of incidents.

Legal Reference:

EDUCATION CODE SECTIONS

200 et seq.	Prohibition of discrimination on the basis of sex
212.5	Sexual harassment, defined
230	Particular practices prohibited, including sexual harassment

TITLE VII, CIVIL RIGHTS ACT of 1964, 42 USC § 2000e as amended by Title IX, Equal Employment Opportunity Act.

FAIR EMPLOYMENT & HOUSING ACT,
Government Code section 12941 et seq.

Policy

Adopted: October 12, 1979 San Diego Unified School District
Revised: October 18, 2010 San Diego, California

At any stage, a complainant may file directly with the Chief Human Resources Officer, Human Resource Services Division at (619) 725-7132.

ENFORCEMENT

Each work site supervisor, manager, and administrator has full responsibility for maintaining a work environment free of sexual harassment. Work site managers shall take appropriate actions to reinforce the district's sexual harassment policy. These actions will include:

1. Ensuring the California Department of Fair Employment and Housing poster is placed on an appropriate bulletin board for employees.
2. Maintaining an available supply of the policy and the district's brochures and materials regarding this policy.
3. Prompt removal of vulgar or sexually offensive graffiti or other displays.
4. Providing annual staff in-services.
5. Taking appropriate disciplinary action as needed.
6. All supervisors, managers, and administrators shall instruct employees on the procedure for reporting sexual harassment on an as needed basis.
7. Employees determined to have violated district prohibition against sexual harassment shall be subject to disciplinary action up to and including termination from employment. District actions may include, but are not limited to:
 - a. Verbal and/or written warnings.
 - b. Written reprimands.
 - c. Suspension with or without pay.
 - d. Reassignment to another work location.
 - e. Demotion and/or termination.

CONFIDENTIAL

District employees involved in processing sexual harassment complaints shall endeavor in good faith to protect the privacy for all parties involved in the complaint process. Files pertaining to sexual harassment complaints shall not be made available to the general public.

PROTECTION AGAINST RETALIATION

San Diego Unified School District policy, state law, and the federal law forbid reprisal or retaliation against any employee, who opposes sexual harassment, files a complaint, testifies, assists or participates in any manner in an investigation, proceeding or hearing.

Other Types of Discrimination Complaints

Complaints from employee(s), volunteer(s), and applicant(s) of a violation of a district policy or a state or federal regulation prohibiting discrimination on the basis of actual or perceived sex, sexual orientation, gender, race, ancestry, ethnic group identification, national origin, color, religion, marital status, age, mental or physical disability, medical condition, denial of family care or medical leave, association with a person or group with one or more of these actual or perceived characteristics or retaliation for filing a complaint of discrimination may be filed directly with the appropriate Human Resources Officer at any stage.

- Eugene Brucker Education Center
4100 Normal Street, Rm 1241
San Diego, CA 92103
(619) 725-7132 * www.sandi.net

Also, complaints may be filed externally to the state or federal agency at any time. The names and addresses of these agencies are:

- ✓ The California Department of Fair Employment and Housing (DFEH)
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
1-800-233-3212 * www.dfeh.ca.gov
- ✓ The U.S. Equal Employment Opportunity Commission (EEOC)
555 West Beech Street, Suite 504
San Diego, CA 92101
1-800-669-4000 * www.eeoc.gov

If the state or federal agency finds that a complaint is justified, it has the power to issue a "cease and desist" order to prevent further unlawful activity and order the violator to pay large fines. It also may order that the wronged party be hired, given back pay, reinstated, promoted, or granted damages for emotional distress.

Uniform Complaint Procedure Notice

The district is primarily responsible for compliance with federal and state laws and regulations. Copies of the district's Uniform Complaint procedures are available free of charge from Legal Services. Individuals or organizations may file a complaint with the district if they believe a federal or state law or regulation has been violated in the following programs:

Adult Basic Education, Child Nutrition,
Child Care and Development Programs
Consolidated Categorical Aid Programs,
Migrant Education, Special Education,
Vocational Education, And School Safety
Planning Requirements.

Complaints should be filed with Legal Services. An investigation or mediation will be concluded within sixty (60) calendar days of receipt of the complaint. Complaints alleging unlawful discrimination must be initiated no later than six (6) months from the date the alleged discrimination occurred or the date the complainant first obtained knowledge of the facts of the alleged discrimination. The complainant has a right to appeal the district's decision to the California Department of Education within fifteen (15) days of receiving the district's written decision.

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately and, in a timely manner, appraised the complainant of his/her right to file a complaint in accordance with the Uniform Complaint Procedures.

SEXUAL HARASSMENT



San Diego Unified School District

August 2012

* See back for information on other types of complaints