

OCEAN VIEW SCHOOL DISTRICT
Huntington Beach, California

BOARD POLICY

BP 4119.11

ALL PERSONNEL

SEXUAL HARASSMENT

The Board of Trustees prohibits sexual harassment of District employees and job applicants. The Board of Trustees 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 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 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 action(s), 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 to take other subsequent necessary actions. Any District employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by 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.

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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

Oncale 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: 11/17/92

Policy Revised: 8/9/05

Policy Revised: 2/5/08

OCEAN VIEW SCHOOL DISTRICT
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ADMINISTRATIVE REGULATION

AR 4119.11

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 gender, in the work or educational setting, when:

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 individual is used as the basis for an employment decision affecting him/her.
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's work performance; creating an intimidating, hostile or offensive work environment; or adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of employment or career development.
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, an employee, or non-employee, in the work or education setting, include but are not limited to:

1. Continual 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, gestures or sexually explicit e-mails; displaying sexually suggestive objects.
3. Unwelcome physical conduct such as massaging, grabbing, fondling, and stroking or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over or impeding normal movements.

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ALL PERSONNEL

SEXUAL HARASSMENT (continued)

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.

Notifications

A copy of the Board policy and this administrative regulation shall:

1. Be displayed in a prominent location in the main administrative building 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 quarter or semester of the school year, or whenever a new employee is hired.
3. Appear in any school or District publication that sets forth the schools 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 or a copy of District information sheets that contain, at a minimum, components on:

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 District'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 the Equal Employment Opportunity Commission.

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SEXUAL HARASSMENT (continued)

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.

OCEAN VIEW SCHOOL DISTRICT
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BOARD POLICY

E 4119.11

CERTIFICATED PERSONNEL

Rights, Responsibilities and Duties

Civil And Legal Rights

Sexual Harassment

**GUIDELINES TO PROTECT YOURSELF AGAINST
ABUSE/HARASSMENT ALLEGATIONS**

Every year teachers in the normal performance of their duties unknowingly put themselves at risk for allegations (usually spurious) of abuse or harassment from their students. Strict adherence to the following guidelines will minimize your chances of being accused of one or more of these allegations.

1. Avoid touching students and, if necessary, touch students only for educational reasons and in only ways that are clearly non-sexual. Be especially sensitive to students who react in even the slightest negative degree to being touched.
2. NEVER touch a student in anger.
3. Never arrange to meet a student away from school without prior written parental permission.
4. Avoid keeping a student for any length of time in an isolated part of the building or in a closed classroom where no other adults are around.
5. Never, except in a true emergency, transport a student in your automobile without prior written parent consent.
6. Never ask a student not to tell their parents about an incident which has occurred.
7. Never say or write anything to a student that you would not be comfortable sharing with the student's parents or District administration.
8. Avoid good natured "joking" that could be misconstrued by any of your students.
9. Avoid giving students repeated compliments that focus physical attributes.

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CERTIFICATED PERSONNEL

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**GUIDELINES TO PROTECT YOURSELF AGAINST
ABUSE/HARASSMENT ALLEGATIONS (continued)**

10. Teachers of students with special needs who may occasionally require physical intervention should make sure that such intervention is included in the student's IEP and that all classroom aides and the site administrator understand the nature of the intervention before it occurs.

Examples of conduct which may constitute sexual harassment, whether committed by a supervisor, any other employee, nor non-employee doing business with the school district, are:

1. Unwelcome leering, staring, sexual flirtations or propositions.
2. Unwelcome sexual slurs, epithets, verbal abuse, derogatory comments or sexually degrading descriptions.
3. Unwelcome graphic verbal comments about an individual's body or overly personal conversation.
4. Unwelcome sexual jokes, stories, drawings, pictures or gestures.
5. Unwelcome spreading of sexual rumors.
6. Unwelcome touching of an individual's body or clothes in a sexual way.
7. Cornering or blocking of a sexual nature of normal movements.
8. Displaying sexually suggestive objects in the educational or work environment.

In simple terms, sexual harassment is deliberate and/or repeated sexual or sex-based behavior that is not welcome and not asked for.