

Butte County Office of Education

SUPERINTENDENT'S POLICY AND ADMINISTRATIVE REGULATIONS

SP 4119.11

SP 4219.11

SP 4319.11

SEXUAL HARASSMENT

The following policy shall apply to all Butte County Office of Education (BCOE) employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with BCOE.

BCOE prohibits sexual harassment of employees and job applicants and also prohibits retaliatory behavior or action against employees or other persons who complain, testify, or otherwise participate in the complaint process established pursuant to this policy and Administrative Regulation (AR).

Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

The County 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 BCOE'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

Any employee or job applicant who feels that they have 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 their supervisor, a BCOE administrator, the Director of Human Resources, or the BCOE Title IX Coordinator within one workday. An employee may bypass their supervisor in filing a complaint where the supervisor is the subject of the complaint.

A supervisor, BCOE administrator, or the Director of Human Resources who receives a harassment complaint shall promptly notify the Title IX Coordinator.

Once notified, the Title IX Coordinator shall ensure the complaint is addressed through either AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures for complaints meeting the Title IX definition of sexual harassment or AR 4030 -Nondiscrimination in Employment for complaints meeting the state definition, as applicable, and shall offer supportive measures to the complainant. The Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 – concurrently meets the requirements of Administrative Regulation 4030 – Nondiscrimination in Employment.

Upon investigation of a sexual harassment complaint, any employee who is found to have engaged or participated in sexual harassment or who aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy is subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable Collective Bargaining Agreement.

Legal Reference:

Education Code

200 et al. Prohibition of discrimination on the basis of sex

GoveHarassment 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

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7287.8 Retaliation

7288.0 Sexual harassment training and education Code of Regulations, Title 5

4900-4965 Non-discrimination 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

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REGULATIONS REGARDING SEXUAL HARASSMENT

Definitions

The following administrative regulation shall apply to all allegations of sexual harassment involving Butte County Office of Education (BCOE) employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by or against a student.

Title IX Coordinator

BCOE designates the following individual as the responsible employee(s) to coordinate its efforts to comply with Title IX in accordance with Administrative Regulation (AR) 4119.12/4219.12/4319.12-Title IX Sexual Harassment Complaint Procedures, as well as to investigate and resolve sexual harassment complaints under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator may be contacted at:

Mikeial Williamson

Title IX Coordinator-Assistant Superintendent, Human Resources

Address: 1859 Bird Street Oroville, CA 95965

Telephone: 530-532-5766

Email: mwilliamson@bcoe.org

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.11 - Sexual Harassment)

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

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

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

The Title IX Coordinator shall be responsible for coordinating complaints of sexual harassment. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12-Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30. If the alleged conduct does not meet this definition, the Title IX Coordinator may process the complaint under another BCOE policy, as applicable.

Prohibited Conduct

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, 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:

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. 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
4. 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

(cf. Education Code 212.5; Government Code 12940; 2 CCR 11034)

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

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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 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

Any employee who receives a report of or observes an incident of sexual harassment shall notify the Title IX Coordinator.

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 newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position.

A supervisory employee is any employee having the authority, in the interest of BCOE, to hire, transfer, suspend, layoff, 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.

(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.

BCOE's sexual harassment training and education program shall include, but not be limited to, the provision of:

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment
2. The types of conduct that constitute sexual harassment
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. 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
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which include BCOE's obligation to conduct an effective workplace investigation of a harassment complaint
10. What to do if the supervisor is personally accused of harassment
11. The essential elements of BCOE's anti-harassment policy, and how to use the policy if a harassment complaint is filed
12. Employees shall receive a copy of BCOE's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received
13. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
14. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to

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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

The County Superintendent or designee shall retain for at least two years the records of any training provided to employees. Such records shall include the names of trained employees, date of the training, sign in sheet, a copy of all certificates of attendance or completion issued, the type of training, a copy of all written or recorded materials that comprise the training, and the name of the training provider.

Notifications

The County Superintendent or designee shall notify employees that BCOE 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 BCOE may be referred to BCOE's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

A copy of the Superintendent's policy and administrative regulation shall:

1. Be displayed in a prominent location in the main administrative building, or other locations where notices of rules, regulations, procedures, and standards of conduct are posted
2. Be provided to every 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 publication that sets forth the school's or Butte 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 of BCOE's website
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

All employees shall receive either a copy of information sheets prepared by the California Civil Rights Department (CRD) or a copy of BCOE 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 complaint process available to the employee
5. The legal remedies and complaint process available through CRD and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact DFEH and the EEOC
7. The protection against retaliation for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC

In addition, BCOE shall post, in a prominent and accessible location, CRD's poster on discrimination in employment and the illegality of sexual harassment, and the CRD's poster on transgender rights.

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