

STUDENTS

Sexual Harassment

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature against another person of the same or opposite gender, in the educational setting when made on the basis of sex and under any of the following conditions:

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's academic status or progress;
2. Submission to or rejection of the conduct by an individual is used as the basis for academic decisions affecting the individual;
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's academic performance; creating an intimidating, hostile, or offensive educational environment; or of adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of education or career development;
4. Submission to or rejection of the conduct by the individual is used as the basis for any decision affecting the individual regarding services, honors, programs, or activities available at or through the San Joaquin County Office of Education (SJCOE).

Types of conduct which are prohibited throughout SJCOE and SJCOE-sponsored programs, whether committed by a supervisor, a teacher, another student, any other employee, or non-employee and which may constitute sexual harassment include, but are not limited to, the following actions:

1. Unwelcome leering, sexual flirtations or propositions;
2. Unwelcome sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions;
3. Graphic verbal comments about an individual's body or overly personal conversation;
4. Sexual jokes, notes, stories, drawings, pictures, obscene gestures, derogatory posters, cartoons, or computer-generated images of sexual nature;
5. Spreading sexual rumors;
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class;

7. Massaging, grabbing, fondling, stroking, or brushing the body;
8. Touching an individual's body or clothes in a sexual way;
9. Purposefully cornering or blocking normal movements or any physical interference with a school activity when directed at an individual on the basis of sex;
10. Limiting a student's access to educational tools;
11. Displaying sexually suggestive objects;
12. Sexual assault, sexual battery, or sexual coercion;
13. Sexual comments, innuendoes, or slurs, oral or in writing, regarding a person's sexual orientation;
14. Verbal comments or taunting students for either exhibiting what is perceived as a stereotypical characteristic for the student's sex, or for failing to conform to stereotypical notions of masculinity or femininity;
15. Any act of retaliation against an individual who reports a violation of the SJCOE sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

All SJCOE personnel have the responsibility of maintaining an educational environment free of sexual harassment. This responsibility includes discussing the SJCOE sexual harassment policy when asked and assuring students that they are not required to endure sexually insulting, degrading, or exploitative treatment, or any other form of sexual harassment.

SJCOE will make its best effort to investigate and resolve all complaints within five working days of receiving notice of harassing behavior, regardless of whether a formal complaint has been filed. SJCOE shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

Notifications

A copy of the SJCOE sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year;
2. Be displayed in a prominent location near each school office;

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session;
4. Appear in any school or SJCOE publication that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for SJCOE.

Complaints of sexual harassment and retaliation resulting from a sexual harassment complaint shall be handled in accordance with the following procedure:

Notice and Receipt of Complaint

Any student who believes he/she has been subjected to sexual harassment or who has witnessed such harassment may file a complaint with any employee. Within 24 hours of receiving a complaint, the employee shall report it to the Director of Human Resources. In addition, any employee who observes an incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Director of Human Resources, whether or not the victim files a complaint.

In any case of sexual harassment involving the Director of Human Resources, to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall, instead, report to the Superintendent.

If the Director of Human Resources receives an anonymous complaint or media report about alleged sexual harassment, he/she shall determine whether it is reasonable to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

Investigation of Complaint

1. The Director of Human Resources shall promptly initiate an impartial investigation of all complaints of sexual harassment within five school days after receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. In so doing, he/she shall talk individually with:
 - a. The student or parent/guardian who is complaining;
 - b. The person accused of harassment;
 - c. Anyone who saw the harassment take place;
 - d. Anyone mentioned as having related information.
2. When a student or parent/guardian has complained or provided information about sexual harassment, the Director of Human Resources shall describe the SJCOE complaint

- procedure and discuss what actions are being sought by the student in response to the complaint.
3. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit the ability of SJCOE to investigate.
 4. The Director of Human Resources or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the Director of Human Resources or designee also may discuss the complaint with the following persons:
 - a. The Superintendent or designee;
 - b. The parent/guardian of the student who complained;
 - c. The parent/guardian of the person accused of harassing someone;
 - d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth;
 - e. Law enforcement and/or child protective services;
 - f. Legal counsel for SJCOE.
 5. The Director of Human Resources or designee shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
 6. In cases of student-on-student harassment, when the student who complained, the person accused of harassment, and their parents so agree, the Director of Human Resources or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided, and he/she shall be advised of the right to end the informal process at any time.
 7. In reaching a decision about the complaint, the Director of Human Resources may take into account.
 - a. Statements made by the persons identified above;
 - b. The details and consistency of each person's account;
 - c. Evidence of how the complaining student reacted to the incident;
 - d. Evidence of past instances of harassment by the accused person;
 - e. Evidence of past harassment complaints that were found to be untrue.
 8. To judge the severity of the harassment, the Director of Human Resources may take into consideration:

- a. How the misconduct affected one or more students' education;
- b. The type, frequency, and duration of the misconduct;
- c. The number of persons involved in the harassing conduct and at whom the harassment was directed;
- d. The age and sex of the person accused of harassment, the student who complained, and the relationship between them;
- e. The subject(s) of harassment;
- f. The place and situation where the incident occurred;
- g. Other incidents at the school, including incidents of other types of harassment.

Written Report on Findings and Follow-Up

1. No more than 30 days after receiving the complaint under 5145.7-Sexual Harassment, the Director of Human Resources shall write a report of his/her findings, decision, steps taken during the investigation, and reasons for the decision and shall present this report to the student who complained and the person accused. The report should include the findings of fact based on the evidence gathered, the conclusion of law, disposition of the complaint, the rationale for such a disposition, and corrective actions, if any are warranted. The timeline for reporting the results may be extended for good cause. If an extension is needed, the Director of Human Resources or designee shall notify the student who complained and explain the reason for the extension.
2. The Director of Human Resources shall give the Superintendent or designee a written report of the complaint and investigation. If he/she verifies that sexual harassment occurred, this report shall describe the actions he/she took to end the harassment, address the effects of the harassment on the person harassed and the campus community, and prevent retaliation or further harassment.
3. The Director of Human Resources shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Director of Human Resources shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.
4. If an investigation of an allegation of sexual harassment against a student or employee reveals evidence of harassment by an employee or a student, SJCOE will pursue an investigation of that issue as well.

Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the SJCOE sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti;
2. Providing staff inservice and student instruction or counseling about how to recognize harassment and how to respond;
3. Disseminating and/or summarizing SJCOE policies and procedures regarding sexual harassment;
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the response to parents/guardians and the community;
5. Notifying Child Protective Services;
6. Taking appropriate disciplinary action. In addition, the Director of Human Resources may take disciplinary measures against any person who is found to have made a complaint of sexual harassment that he/she knew was not true.

Superintendent's Designee

The Superintendent designates the Director of Human Resources for these procedures.

cf: 1312 Uniform Complaint Procedure
4118 Suspension/Disciplinary Action
4119.23/4219.23/4319.23 Unauthorized Release of Confidential/Privileged Information
4131/4231/4331 Staff Development
5125 Student Records
5131 Conduct
5131.2 Bullying
5131.5 Vandalism and Graffiti
5144.1 Suspension and Expulsion/Due Process
5144.2 Suspension and Expulsion/Due Process (Students with Disabilities)
5141.41 Child Abuse Prevention and Reporting Procedures
5145.3 Nondiscrimination/Harassment
5145.6 Parent Notifications

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter: Harassment and Bullying, October 2010
(3/12)