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## **SEXUAL HARASSMENT - EMPLOYEES**

The Board of Education is committed to maintaining an employment, educational, and business environment free from harassment, intimidation or insult on the basis of an individual's **actual or perceived sex, sexual orientation, gender, gender identity or expression**. Positive action will be taken when necessary to eliminate such practices or remedy their effects. Sexual harassment as defined and otherwise prohibited by state and federal statutes, constitutes an unlawful form of sex discrimination in violation of Title IX of the Education Amendments Act of 1972 and Title VII of the Civil Rights Act of 1964. In addition, sexual harassment constitutes violation of the California Education Code, regulations of the State Board of Education, and District Policy. As such, sexual harassment may constitute just cause for discipline pursuant to applicable Education Code Sections.

It is the policy of the Irvine Unified School District that sexual harassment in the work place is unacceptable and will not be condoned or tolerated.

### **Definition**

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. It includes, but is not limited to, circumstances in which:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting such employee; or
3. such conduct has the purpose or effect of unreasonable interference with an employee's work performance or creates an intimidating, hostile or offensive working environment.

### **Forms of Sexual Harassment**

Forms of sexual harassment include, but are not limited to, the following:

1. verbal harassment: derogatory comments, jokes or slurs;
2. physical harassment: unnecessary or offensive touching or impeding or blocking movement;
3. visual harassment: derogatory or offensive posters, cards, cartoons, graffiti, drawings, or gestures; and
4. sexual favors: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Activities such as:

- comments repeatedly emphasizing the sexuality or sexual identity of an individual;

- persistent requests for social-sexual encounters and favors;
- physical contact of a lewd type;
- indecent exposure; and realized sexual encounters

constitute sexual harassment when they are accompanied by one or more of the following terms or conditions:

1. explicit or implicit promises or rewards for cooperation via misuse of institutional authority;
2. explicit or implicit threats of punishment for non-cooperation via misuse of institutional authority;
3. intimidation which creates a hostile or offensive working environment; interferes with an employee's work performance; prevents an employee's enjoyment of employment opportunities; or induces conformance, stress, anxiety, fear, or sickness on the part of the harassed employee.

### **Resolution Process**

#### **Informal Process:**

To accommodate the unique nature of sexual harassment complaints, an informal process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this process are:

1. Employees may submit sexual harassment complaints to their immediate supervisor, the Deputy Superintendent, Human Resources, or the Superintendent of Schools.
2. The Deputy Superintendent, Human Resources, will
  - a. inform the complainant of any rights under any relevant complaint procedure, policy, or collective bargaining agreement;
  - b. authorize the investigation of the complaint and supervise and/or investigate the complaint.

The investigation will include interviews with:

- the complainant
  - the alleged harasser, and
  - any other persons who reasonably may have relevant knowledge concerning the complaint, such as witnesses and victims of similar conduct.
- c. review factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical or visual aspects of the conduct and the context in which the alleged incidents occurred;
  - d. if harassment occurred, take prompt remedial action against the harasser; such action shall be commensurate with the severity of the offense in accordance with any contractual and statutory due process requirements.

### **Formal Process**

Complaints which are not resolved through the above informal procedure may be processed through the formal complaint procedures specified in Board Policy [4030](#).

Legal References Education Code

sections 212.5, 230 , 231.5

Title VII of the Civil Rights Act of 1964

Title IX of the Education Amendments Act of 1972

Meritor Savings Bank v. Vinson 477 U.S. 57 (1986)

Franklin v. Gwinnett County Schools, 112 S.Ct. 1028 (1992)

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