Annual Notifications for Certificated Staff
VISTA UNIFIED SCHOOL DISTRICT

All Personnel

BOARD POLICY NO. 4119.42: EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS (Certificated Personnel)

As part of its commitment to provide a safe and healthful work environment, the Board of Education recognizes the importance of developing an exposure control plan. The Superintendent or designee shall establish a written exposure control plan in accordance with state and federal standards for dealing with potentially infectious materials in the workplace to protect employees from possible infection due to contact with bloodborne pathogens, including but not limited to hepatitis B virus, hepatitis C virus and human immunodeficiency virus (HIV).

Legal Reference:

LABOR CODE
142.3 Authority of Cal/OSHA to adopt standards
144.7 Requirement to amend standards
CODE OF REGULATIONS, TITLE 8
3204 Access to employee exposure and medical records
5193 California bloodborne pathogens standards
CODE OF FEDERAL REGULATIONS, TITLE 29
1910.1030 OSHA bloodborne pathogens standards

Management Resources:

CDE ADVISORIES
1016.89 Guidelines for Informing School Employees about Preventing the Spread of Infectious Diseases, including Hepatitis B and AIDS/HIV Infections and Policies for Dealing with HIV-Infected Persons in School Settings
WEB SITES
OSHA: http://www.osha.gov
Cal/OSHA: http://www.dir.ca.gov/occupational_safety.html
Centers for Disease Control and Prevention: http://www.cdc.gov

Cross Reference:

BOARD POLICY
4119.43/4219.43/4319.43 - Universal Precautions
4157/4257/4357 - Employee Safety

Policy Reviewed – 1st Reading: October 21, 2010
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VISTA UNIFIED SCHOOL DISTRICT

ADMINISTRATIVE REGULATION NO. 4119.42

All Personnel

EXPOSURE CONTROL PLAN FOR BLOODBORNE PATHOGENS
(Certificated Personnel)

Definitions

Occupational exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. (8 CCR 5193(b))

Exposure incident means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that result from the performance of an employee's duties. (8 CCR 5193 (b))

Parenteral contact means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions. (8 CCR 5193(b))

A sharp is any object that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident. (8 CCR 5193(b))

A sharps injury is any injury caused by a sharp, including but not limited to cuts, abrasions or needlesticks. (8 CCR 5193(b))

Work practice controls are controls that reduce the likelihood of exposure by defining the manner in which a task is performed. (8 CCR 5193(b))

Engineering controls are controls, such as sharps disposal containers, needleless systems, and sharps with engineered sharps injury protection, that isolate or remove the bloodborne pathogens hazard from the workplace. (8 CCR 5193(b))

Engineered sharps injury protection is a physical attribute built into a needle device or into a non-needle sharp which effectively reduces the risk of an exposure incident. (8 CCR 5193(b))

Exposure Control Plan

The district's exposure control plan shall contain at least the following components: (8 CCR 5193(c))

1. A determination of which employees have occupational exposure to blood or other potentially infectious materials

   The district's exposure determination shall be made without regard to the use of personal protective equipment and shall include a list of:

   a. All job classifications in which all employees have occupational exposure

   b. Job classifications in which some employees have occupational exposure
c. All tasks and procedures, or groups of closely related tasks and procedures, in which occupational exposure occurs and which are performed by employees listed in item #b above

2. The schedule and method of implementing:
   a. Methods of compliance required by 8 CCR 5193(d), such as universal precautions, general and specific engineering and work practice controls, and personal protective equipment
   b. Hepatitis B vaccination
   c. Bloodborne pathogen post-exposure evaluation and follow-up
   d. Communication of hazards to employees, including labels, signs, information and training
   e. Recordkeeping

3. The district's procedure for evaluating circumstances surrounding exposure incidents

4. An effective procedure for gathering information about each exposure incident involving a sharp, as required for the log of sharps injuries

5. An effective procedure for periodically determining the frequency of use of the types and brands of sharps involved in exposure incidents documented in the sharps injury log

6. An effective procedure for identifying currently available engineering controls and selecting such controls as appropriate for the procedures performed by employees in their work areas or departments

7. An effective procedure for documenting instances when a licensed healthcare professional directly involved in a patient's care determines, in the reasonable exercise of clinical judgment, that the use of an engineering control would jeopardize an individual's safety or the success of a medical, dental or nursing procedure involving the individual

8. An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed by employees in their respective work areas or departments

The exposure control plan shall be reviewed and updated at least annually and whenever necessary to: (8 CCR 5193(c))

1. Reflect new or modified tasks and procedures affecting occupational exposure

2. To the extent that sharps are used in the district, reflect progress in implementing the use of needleless systems and sharps with engineered sharps injury protection

3. Include new or revised employee positions with occupational exposure
4. Review and evaluate the exposure incidents which occurred since the previous update

5. Review and respond to information indicating that the exposure control plan is deficient in any area

The district's exposure control plan shall be accessible to employees upon request. (8 CCR 3204(e))

Preventive Measures

The Superintendent or designee shall use engineering and work practice controls to eliminate or minimize employee exposure, and shall regularly examine and update controls to ensure their effectiveness. (8 CCR 5193(d))

Hepatitis B Vaccination

The hepatitis B vaccination and vaccination series shall be made available at no cost to all employees who have occupational exposure. The hepatitis B vaccination shall be made available after an employee with occupational exposure has received the required training and within 10 working days of initial assignment, unless the employee has previously received the complete hepatitis B vaccination series, or antibody testing has revealed that the employee is immune, or vaccination is contraindicated by medical reasons. (8 CCR 5193(f))

Employees who decline to accept the vaccination shall sign the hepatitis B declination statement. (8 CCR 5193(f))

The Superintendent or designee may exempt designated first aid providers from the pre-exposure hepatitis B vaccine in accordance with 8 CCR 5193 (f).

Information and Training

The Superintendent or designee shall ensure that all employees with occupational exposure participate in a training program containing the elements required by state regulations, during working hours and at no cost to the employee. This program shall be offered at the time of initial assignment to tasks where occupational exposure may take place, at least annually thereafter, and whenever a change of tasks or procedures affects the employee's exposure. (8 CCR 5193(g))

Designated first aid providers shall receive training that includes the specifics of reporting first-aid incidents which involve blood or body fluids which are potentially infectious. (8 CCR 5193(g))

Reporting Incidents

All exposure incidents shall be reported as soon as possible to the Superintendent or designee.

Unvaccinated designated first aid providers must report any first aid incident involving the presence of blood or other potentially infectious material, regardless of whether an exposure incident occurred, by the end of the work shift. The full hepatitis B vaccination series shall be
made available to such employees no later than 24 hours after the first aid incident. (8 CCR 5193(f))

Sharps Injury Log

The Superintendent or designee shall establish and maintain a log recording each exposure incident involving a sharp. The exposure incident shall be recorded within 14 working days of the date the incident is reported to the district. (8 CCR 5193(c))

The information recorded shall include the following, if known or reasonably available: (8 CCR 5193(c))

1. Date and time of the exposure incident
2. Type and brand of sharp involved in the exposure incident
3. A description of the exposure incident, including:
   a. Job classification of the exposed employee
   b. Department or work area where the exposure incident occurred
   c. The procedure that the exposed employee was performing at the time of the incident
   d. How the incident occurred
   e. The body part involved in the incident
   f. If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before, during or after the protective mechanism was activated
   g. If the sharp had no engineered sharps injury protection, the injured employee's opinion as to whether and how such a mechanism could have prevented the injury
   h. The employee's opinion about whether any other engineering, administrative or work practice could have prevented the injury

Post-Exposure Evaluation and Follow-up

Following a report of an exposure incident, the Superintendent or designee shall immediately make available to the exposed employee, at no cost, a confidential medical evaluation, post-exposure evaluation and follow-up. The Superintendent or designee shall, at a minimum: (8 CCR 5193(f))

1. Document the route(s) of exposure and the circumstances under which the exposure incident occurred
2. Identify and document the source individual, unless that identification is infeasible or prohibited by law

3. Provide for the collection and testing of the employee's blood for hepatitis B, hepatitis C and HIV serological status

4. Provide for post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service

5. Provide for counseling and evaluation of reported illnesses

The Superintendent or designee shall provide the health care professional with a copy of 8 CCR 5193; a description of the employee's duties as they relate to the exposure incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual's blood testing, if available; and all medical records maintained by the district relevant to the appropriate treatment of the employee, including vaccination status. (8 CCR 5193(f))

The district shall maintain the confidentiality of the affected employee and the exposure source during all phases of the post-exposure evaluation. (8 CCR 5193(f))

**Records**

Upon an employee's initial employment and at least annually thereafter, the Superintendent or designee shall inform employees with occupational exposure of the existence, location and availability of related records; the person responsible for maintaining and providing access to records; and the employee's right of access to these records. (8 CCR 3204)

Medical records for each employee with occupational exposure shall be kept confidential and not disclosed or reported without the employee's written consent to any person within or outside the workplace except as required by law. (8 CCR 5193(h))

Upon request by an employee, or a designated representative with the employee's written consent, the Superintendent or designee shall provide access to a record in a reasonable time, place and manner, no later than 15 days after the request is made. (8 CCR 3204(e))

Records shall be maintained as follows: (8 CCR 3204(d), 5193(h))

1. Medical records shall be maintained for the duration of employment plus 30 years.

2. Training records shall be maintained for three years from the date of training.

3. The sharps injury log shall be maintained five years from the date the exposure incident occurred.

4. Exposure records shall be maintained for at least 30 years.

5. Each analysis using medical or exposure records shall be maintained for at least 30 years.
Cross Reference:

BOARD POLICY
1340 - Access to District Records
3580 - District Records
4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information
4119.43/4219.43/4319.43 - Universal Precautions
9011 - Disclosure of Confidential/Privileged Information

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VISTA UNIFIED SCHOOL DISTRICT

ADMINISTRATIVE REGULATION NO. 4100

CERTIFICATED PERSONNEL

RULES OF CONDUCT

The Governing Board expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the district's educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

EMPLOYEE CONDUCT

1. Each employee is required to perform all listed duties and responsibilities contained in applicable Board Policies, the applicable job description and applicable law.

2. Each employee shall follow all reasonable directives from the employee’s immediate supervisor, the Superintendent or designee, and the Board. Each employee is required to follow all such directives unless they necessarily place the employee, another employee or a student in an unsafe or dangerous condition; or they necessarily require the violation of applicable law.

3. Each employee shall adhere to relevant working conditions, the employee’s assignment, including any rules or regulations regarding discipline, established by a collective bargaining agreement, the Board, the Superintendent or designee, or the employee’s immediate supervisor.

4. Each employee shall adhere to all applicable law, including the law covering the operations of the District, the educational program of the District, the rights of students, the rights of employees, and the rights of parents and the public.

5. The District is an equal employment opportunity employer that complies with all applicable federal and state non-discrimination laws. The District does not tolerate the violation of such laws by any employee. The District also does not tolerate illegal sexual harassment or any other illegal harassment by an employee.

6. The District is committed to all applicable laws concerning equal educational opportunity for all the students in the District. The District does not tolerate the violation of such laws by any employee.

7. Each employee is prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled substance in any workplace or facility of the District. Each employee must notify the Superintendent in writing within five (5) days of any drug statute conviction for a violation occurring in any workplace or facility of this District. A conviction includes any finding or guilt, including a no contest plea, or imposition of a sentence.
8. No employee shall be under the influence of alcohol or a controlled substance while the employee is acting within the scope of employment. The use of drugs under and consistent with the directions of a physician which does not unreasonably impair the performance of an employee is not prohibited. An employee may use prescribed drugs while acting within the scope of employment as long as such use is under and consistent with the directions of a physician and such use does not unreasonably impair the performance of the employee.

9. Each employee shall report any unsafe condition or illegal activity to the employee’s immediate supervisor, the Superintendent or the Assistant Superintendent as soon as possible after discovering the unsafe condition or illegal activity. The District does not tolerate the observance of illegal activity without reporting it as soon as possible to a representative of the District.

10. The District requires each employee to adhere to the Child Abuse and Neglect Reporting Act (Penal Code sections 11164-11174.3). Each employee who has knowledge of or observes a child in the employee’s professional capacity or within the scope of employment when the employee knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone. Each employee then shall prepare and send a written report to the child protective agency within 36 hours of receiving the information concerning the incident.

11. No employee shall release confidential information involving another employee or a student to a parent or any other member of the public unless expressly authorized by applicable law, the Superintendent or designee, or the Board. Each employee is required to adhere to all applicable laws protecting the privacy rights of employees and students.

12. No employee shall smoke or use tobacco products at any workplace or facility of the district. The district discourages all employees from smoking or using tobacco products, and prohibits smoking and the use of tobacco products wherever an employee is acting within the scope of employment.

13. Pursuant to Education Code section 44932(a), a permanent employee may be dismissed for:
   a. Immoral or unprofessional conduct;
   b. Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by law;
   c. Dishonesty;
   d. Incompetency;
   e. Evident unfitness for service;
   f. Physical or mental condition unfitting them to instruct or associate with children;
   g. Persistent violation of or refusal to obey the school laws of California, or reasonable regulations adopted by the State Board of Education, or reasonable regulations or policies adopted by the District; Conviction of a felony or of any crime involving moral turpitude;
   h. Violation of statutes prohibiting the advocacy of communism;
   i. Violation of any provision in Education Code sections 7001 to 7007;
   j. Knowing membership in the Communist Party; or
   k. Alcoholism or other drug abuse which makes the employee unfit to instruct or associate with children.
14. The Commission on Teacher Credentialing has adopted Rules of Conduct for Professional Educators which became operative on February 3, 1989. Each employee is required to abide by such rules that are set forth in the California Code of Regulations, Title 5, Sections 80331-80338.

15. No employee shall remove District property from District facilities for personal use.

16. It is the responsibility for each employee to register his/her credential with the District prior to reporting to duty. Failure to do so may result in the pay warrant being withheld. Employees shall not be paid prior to the date of a valid credential. Failure to maintain a valid credential may result in removal from the assigned position.

STAFF CONDUCT WITH STUDENTS

The Board expects all employees to exercise good judgment and maintain professional standards and boundaries when interacting with students both on and off school property. Inappropriate employee conduct shall include, but not be limited to, engaging in harassing or discriminatory behavior; engaging in inappropriate socialization or fraternization with a student; soliciting, encouraging, or establishing an inappropriate written, verbal, online or physical relationship with a student; furnishing tobacco, alcohol, or other illegal or unauthorized substances to a student; or engaging in child abuse.

An employee who observes or has evidence of inappropriate conduct between another employee and a student shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

Any employee who is found to have engaged in inappropriate conduct with a student in violation of the law or this policy shall be subject to disciplinary action.

No employee shall inflict, or cause to be inflicted, corporal punishment upon a student. The term “corporal punishment” means the same as it is defined by Education Code section 49001. Each employee is required to adhere to Education Code sections 49000 and 49001 that prohibit corporal punishment.

No employee shall use physical redirection that causes harm or embarrassment to students to redirect student conduct. Prohibited physical redirection includes, but is not limited to pinching, pushing, grabbing, blocking and holding students. For purposes of this policy, this prohibition does not include an employee's use of force that is reasonable and necessary to protect the employee, students, staff or other persons or to prevent damage to property or to obtain possession of weapons or other dangerous objects within the control of the student. (Education Code 49001).

The Board delegates to the Superintendent the authority to adopt written regulations regarding the conduct of employees as long as they are not inconsistent with Policies adopted by the Board. Any such written regulations shall be adhered to as if the Board adopted them.

Legal Reference:

**EDUCATION CODE**
200-262.4 Prohibition of discrimination on the basis of sex
PENAL CODE
11164-11174.4 Child Abuse and Neglect Reporting Act
CODE OF REGULATIONS, TITLE 5
80331-80338 Rules of Conduct for Professional Educators

Management Resources:
COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS
Standards for School Leaders, 1996
NATIONAL EDUCATION ASSOCIATION PUBLICATIONS
Code of Ethics of the Education Profession, 1975

WEB SITES
CSBA: http://www.csba.org
Association of California School Administrators: http://www.acsa.org
California Department of Education: http://www.cde.ca.gov
California Federation of Teachers: http://www.cft.org
California School Employees Association: http://www.csea.com
California Teachers Association: http://www.cta.org
Commission on Teacher Credentialing: http://www.ctc.ca.gov
Council of Chief State School Officers: http://www.ccsso.org

Cross Reference:
BOARD POLICY
0200 - Goals for the School District
4112.2 - Certification
4119.1/4219.1/4319.1 - Civil and Legal Rights
4131 - Staff Development
4231 - Staff Development
4331 - Staff Development
2111 - Superintendent Governance Standards
9005 - Governance Standards
0410 - Nondiscrimination in District Programs and Activities
4040 - Employee Use of Technology
5131 - Conduct
6163.4 - Student Use of Technology
5141.4 - Child Abuse Prevention and Reporting
5144 - Student Discipline
4118 - Suspension/Disciplinary Action
4218 - Dismissal/Suspension/Disciplinary Action

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VISTA UNIFIED SCHOOL DISTRICT

All Personnel

BOARD POLICY NO. 4119: DUTIES, RESPONSIBILITIES AND RIGHTS
(Certificated Management)

The Board of Trustees recognizes the importance of having adequate job descriptions for every employee. The Superintendent or designee shall prepare and regularly update job descriptions for all classes of positions.

All employees shall fulfill the duties and responsibilities set forth in their job descriptions and shall comply with policies, administrative regulations, operational procedures, applicable employee agreements, and local, state, and federal laws.

Each employee shall adhere to all applicable law, including the law covering the operations of the District, the educational program of the District, the rights of students, the rights of employees, and the rights of parents and the public.

The District is an equal employment opportunity employer that complies with all applicable federal and state non-discrimination laws. The District does not tolerate the violation of such laws by any employee. The District also does not tolerate illegal sexual harassment or any other illegal harassment by an employee.

The District is committed to all applicable laws concerning equal educational opportunity for all the students in the District. The District does not tolerate the violation of such laws by any employee.

The District requires each employee to adhere to the Child Abuse and Neglect Reporting Act (Penal Code sections 11164-11174.3). Each employee who has knowledge of or observes a child in the employee’s professional capacity or within the scope of employment when the employee knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone. Each employee then shall prepare and send a written report to the child protective agency within 36 hours of receiving the information concerning the incident.

The Board delegates to the Superintendent the authority to adopt written regulations regarding the conduct of employees as long as they are not inconsistent with Policies adopted by the Board. Any such written regulations shall be adhered to as if the Board adopted them.

Policy Reviewed – 1st Reading: September 9, 2010
2nd Reading & Approval: October 21, 2010
VISTA UNIFIED SCHOOL DISTRICT

All Personnel

BOARD POLICY NO. 4119.11: SEXUAL HARASSMENT (Certificated Personnel)

The Board of Education prohibits sexual harassment of district employees and job applicants. The Board 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. (5 CCR 4964)

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.

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
Training

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. (Government Code 12950.1)

The district’s training and education program for supervisory employees shall include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1; 2 CCR 7288.0)

In addition, the Superintendent or designee shall ensure that all employees receive periodic training regarding the district’s sexual harassment policy, particularly the procedures for filing complaints and employees’ duty to use the district’s complaint procedures.

Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building, district office, 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 school year or whenever a new employee is hired

3. Appear in any school or district publication that sets forth the school’s 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 (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

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 DFEH and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact DFEH and the EEOC
VISTA UNIFIED SCHOOL DISTRICT

ADMINISTRATIVE REGULATION NO. 4119.11

All Personnel

SEXUAL HARASSMENT (Certificated Personnel)

Definitions

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 sex in the work or educational setting when: (Education Code 212.5; 5 CCR 4916)

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 him/her.

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. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.

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, a co-worker, or a 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

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.
1102.1 Discrimination: sexual orientation
CODE OF REGULATIONS, TITLE 2
7287.8 Retaliation
7288.0 Sexual harassment training and education
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

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
U.S. Department of Education, Office for Civil Rights:
http://www.ed.gov/about/offices/list/ocr/index.html

Cross Reference:
BOARD POLICY
0410 - Nondiscrimination in District Programs and Activities
4030 - Nondiscrimination in Employment
4112.9/4212.9/4312.9 - Employee Notifications
4031 - Complaints Concerning Discrimination in Employment
4117.4 - Dismissal
4118 - Suspension/Disciplinary Action
4218 - Dismissal/Suspension/Disciplinary Action

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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.

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

**Cross Reference:**

- **BOARD POLICY**
  - 4031 - Complaints Concerning Discrimination in Employment
  - 4112.9/4212.9/4312.9 - Employee Notifications

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