

Sexual Harassment

The Governing Board is committed to maintaining an educational environment that is free of harassment. The Board prohibits the unlawful sexual harassment of any ROP student by any employee, student, or other person at an ROP program, class or any ROP-related activity.

The ROP's Superintendent or designee shall ensure that ROP students receive age-appropriate information related to sexual harassment. ROP students shall be assured that they need not endure any form of sexual behavior or communication, including harassment because of sexual orientation. They shall further be assured that they need not endure, for any reason, any harassment which interferes with the educational environment of the ROP student or a student's emotional well-being in an ROP class, program, or activity, or which creates an intimidating, threatening or abusive environment for the ROP student at an ROP class, program, or activity.

Any student who engages in the sexual harassment of anyone at an ROP class, program, or activity shall be subject to disciplinary action up to and including suspension and/or expulsion.

Any employee who engages in, permits, condones or fails to report sexual harassment shall be subject to disciplinary action up to and including dismissal. In addition, criminal or civil charges may be brought against the alleged harasser(s) and/or any supervisor who is aware of the sexual harassment and fails to take appropriate action to stop it. Sexual harassment of minor students may also constitute violations of laws relating to child abuse which require a report to a child protective agency and/or law enforcement authorities.

Students shall be informed that they should immediately contact a staff member of the ROP if they feel they are being harassed. Within 24 hours of being informed of or observing a sexual harassment incident, even if the victim has not yet complained about the incident, ROP staff shall report the sexual harassment incident to the site principal or designee and to the ROP's Superintendent or designee.

The ROP's Superintendent or designee and/or the site principal or designee shall promptly investigate any report of the sexual harassment of a student at an ROP class, program, or activity. Upon verifying that sexual harassment occurred, the ROP's Superintendent or designee shall ensure that appropriate action is promptly taken to end the harassment, address its effects on the person subjected to the harassment, and prevent any further instances of the harassment. In addition, the student may file a formal complaint with the ROP's Superintendent or designee in accordance with the ROP's uniform complaint procedures.

(cf. 1700 – Uniform Complaint Procedures)

Sexual Harassment

The Governing Board expressly prohibits retaliatory behavior against any complainant or any participant in the complaint investigation process. Information related to a complaint of sexual harassment shall be kept confidential to the extent possible under the law, and individuals and/or witnesses involved in the investigation of such a complaint shall be informed that discussion of any related information outside the investigation process is improper.

Legal References (next page)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

12950.1 Sexual harassment training

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

Sexual Harassment**Prohibited Conduct**General Definition

Prohibited sexual harassment includes unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature. (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The sexual conduct is severe, persistent or pervasive enough to have a negative impact on the student's academic performance and/or to create an intimidating, hostile, abusive or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through the ROP.

Specific Examples

Types of unwelcome conduct or unwanted sexual conduct which are prohibited in the district and which may constitute sexual harassment include:

1. Unwelcome sexual advances, flirtations, or propositions
2. Touching an individual's body or clothes in a sexual way
3. Graffiti of a sexual nature.
4. Displaying or distributing sexually explicit drawings, pictures and written materials.
5. Sexual gestures, jokes, or stories.
6. Cornering or blocking of normal movements.
7. Pressure for sexual favors.

Sexual Harassment

8. Touching oneself sexually in front of others.
9. Talking about one's sexual activity in front of others.
10. Spreading rumors about or rating others as to sexual activity or performance.
11. Retaliation against an individual who reports or participates in an investigation.
12. Graphic verbal comments about an individual's body, sexual slurs, leering, epithets, threats, derogatory comments/names or sexually degrading descriptions.
13. Poking, patting, pinching, grabbing, bumping, brushing others.
14. Teasing about over/under, early/late body development.
15. Bra snapping, pulling clothes, "panting" others.
16. Whistling or making cat calls to others.
17. Bragging about the size of sexual organs.

Notifications of Policy/Regulations

A copy of the ROP's sexual harassment policy and administrative regulation shall:

1. be included in the notifications that are sent to students and/or their parents/guardians at the beginning of each school year;
2. Be displayed in a prominent location near each school's career center at which an ROP class, program or activity occurs, and/or other locations(s) in the main administrative building and/or other areas where notices of ROP rules, regulations, procedures and standards of conduct are posted;
3. be provided as part of an orientation program conducted for new students at the beginning of each quarter, semester or summer session;
4. Appear in any ROP publication that sets forth the ROP's comprehensive rules, regulations, procedures and standards of conduct;
5. Be provided to ROP employees and employee organizations.

Sexual Harassment

Investigation of Complaints

1. If the alleged sexual harassment occurred at an ROP student's job site by an individual who is not employed by nor a student in the ROP, the ROP Superintendent or designee shall assist the student in submitting his/her complaint to the appropriate person or department within the student's employer for investigation by the student's employer.
2. The ROP's Superintendent or designee shall promptly investigate all complaints of sexual harassment alleged to have occurred at an ROP class, program or activity.
3. In investigating the complaint allegations and/or in preparing his/her investigative report and decision regarding the complaint, the ROP's Superintendent or designee shall make reasonable efforts to keep the matter confidential to the extent provided by law. however, he/she may discuss the complaint allegations with any of the following individuals at his/her discretion:
 - a. The complaining student/victim;
 - b. The person accused of harassment;
 - c. Any witnesses who may have seen or heard the harassment take place;
 - d. Anyone mentioned by the victim, the accused, or other witness as having related information.
 - e. The complaining student/victim shall have an opportunity to describe the incident, witnesses and other evidence of the harassment, and put his/her complaint in writing.
 - f. The ROP's Superintendent or designee;
 - g. The parent/guardian of the student who complained;
 - h. The parent/guardian of the person accused of the harassment;
 - i. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth;
 - j. Child protective agencies responsible for investigating child abuse reports;

Sexual Harassment

- k. Legal counsel for the ROP.
4. When the student who complained and the person accused of harassment so agree, the ROP's Superintendent or designee may arrange for them to resolve the complaint informally with the help of a trained counselor, teacher, administrator or mediator. The student who complained shall not be asked to work out the problem directly with the accused person unless such help is provided.
 5. The ROP's Superintendent or designee shall inform the student who complained that he/she has the right to file a formal complaint at any time in accordance with the ROP's uniform complaint procedures. If the student wishes to file a formal complaint, the ROP's Superintendent or designee will assist the student in doing so.
 6. In reaching a decision about the complaint, the ROP's Superintendent or designee may take into account:
 - a. Statements made by any of the persons specified 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 by the complaining student/victim that were found to be untrue.
 7. To judge the severity of the harassment, the ROP's Superintendent or designee 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
 - d. The age and sex of the person accused of harassment;
 - e. The age and sex of the person subjected to the harassment;

Sexual Harassment

- f. The place and situation where the incident occurred;
 - g. other incidents at the ROP class, program or activity, including incidents of harassment that were not related to sex;
- 8. The ROP's Superintendent or designee shall provide a written report of his/her findings, decision, and reasons for the decision to the student who complained and the person accused of the harassment. If the ROP's Superintendent or designee verifies that sexual harassment occurred, this report shall describe the actions he/she took and/or will take to end the harassment, address the effects of the harassment on the person harassed, and to prevent retaliation or further harassment.
- 9. Thereafter, the ROP's Superintendent or designee shall periodically determine whether or not the student who complained has been further harassed and/or retaliated against. The ROP's Superintendent or designee shall keep a record of this information, take appropriate action as necessary to prevent or stop any retaliation or further harassment of the employee/victim, and shall continue this follow-up for a reasonable period after the conclusion of the complaint investigation and subsequently at his/her discretion.
- 10. In the event that the complaining student is dissatisfied with the decision of the ROP's Superintendent or designee, the student may submit a written appeal of the decision to the ROP's Governing Board within fifteen (15) business days of the student's receipt of the ROP's Superintendent or designee's investigation report. The written appeal shall specify the reasons for the appeal and the desired remedy the student seeks. A copy of the appeal shall also be provided to the ROP's Superintendent or designee by the student.
- 11. Within thirty (30) business days of receipt of a copy of the appeal by the student, the ROP's Governing Board shall review the ROP's Superintendent or designee's investigation report and determine whether to:
 - a. Accept the investigation report as it is written without further hearing;
 - b. hear the appeal of the complainant; or
 - c. Direct further investigation as the ROP's Governing Board deems necessary or appropriate.

Sexual Harassment

12. Written notice of the ROP Governing Board's decision shall be promptly provided to the complaining student and to the accused. If any additional investigation is deemed necessary or appropriate by the Governing Board, it shall promptly occur by an investigator designated by the Governing Board. In the event the Governing Board determines to hold a hearing concerning the appeal, all pertinent parties shall be informed in writing of the hearing date, time and location. After the hearing, the Governing Board shall provide a written decision to the complainant and the accused concerning the appeal within ten (10) business days of the hearing date. The decision of the Governing Board shall be final.

Enforcement

The ROP's Superintendent or designee shall take appropriate actions to supplement and/or reinforce the ROP's sexual harassment policy. As deemed needed by the ROP's Superintendent, these actions may include any of the following:

1. Removing graffiti of a sexual or graphic nature from ROP property;
2. Providing staff in-service and age-appropriate student instruction concerning sexual harassment awareness;
3. Providing counseling for the individuals involved in a sexual harassment incident;
4. Notifying students, their parents/guardians and/or any student employer participating in the ROP of the ROP's sexual harassment policy and administrative regulation;
5. Notifying child protective agencies of any sexual harassment incident as appropriate under the Mandated Child Abuse Reporter's Act;
6. Taking appropriate disciplinary action against any harasser;
7. Taking appropriate disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true;
8. Providing reasonable interim assistance to the victim of the sexual harassment to protect him/her from further harassment and/or retaliation;
9. Providing additional services to the victim to redress the effects of the harassment.

Students

AR 5300 (g)

Sexual Harassment

The ROP's Superintendent or designee shall maintain records concerning all sexual harassment complaints and investigations record as appropriate.

Regulation

Approved: June 10, 1999

TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM

Livermore, CA