

BOARD POLICY

PERSONNEL - CERTIFICATED/CLASSIFIED

NUMBER: 4119.11

SEXUAL HARASSMENT POLICY

It is the policy of the Stony Creek Joint Unified School District that sexual harassment is deemed unacceptable conduct in the workplace and will not be tolerated.

All individuals are entitled to a work and academic environment free from all forms of discrimination, including sexual harassment.

Sexual harassment is a form of personal misconduct that undermines the integrity of employment and academic relationships. No individual, either male or female, should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that lowers morale and that, therefore, interferes with work or academic effectiveness.

The administrator has a responsibility to ensure that the educational setting is free of sexual harassment. This duty includes discussing this policy with all employees and students and assuring them that they are not to endure insulting, degrading or exploitative sexual treatment.

Confidentiality

Effort will be made to protect the privacy of parties involved in a complaint. Files pertaining to complaints handled under this process are confidential and therefore will only be discussed on a need-to-know basis as a means of investigating and resolving the matter(s).

Definition (Ref. Ed. Code Section 212.5)

For purposes of this policy, "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or educational setting, under any of the following conditions.

1. Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact

upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services honors, programs, or activities available at or through the education institution.

Procedures

1. Communication of Policy

It is the district's intent that the Sexual Harassment Policy will be known and understood by all employees and students. This will be accomplished by:

- a. inserting this policy in the district policy manual.
- b. providing copies of this policy to all employees.
- c. providing notification of this policy to students and parents.

2. Complaints and Resolutions, EMPLOYEES AND OTHER ADULTS

Employee Complaint and Resolution Process

Step One

Informal Level

Employees or other individuals who feel aggrieved because of conduct they believe constitutes sexual harassment should directly inform the person engaging in such conduct that such conduct is offensive and must stop.

Step Two

Formal Level

Within ten (10) school days of the alleged incident of sexual harassment, the complainant shall report the incident to the administrator. If the accused is the administrator, the complainant can proceed immediately to Step Four. Within five (5) school days of the report of alleged sexual harassment, the administrator shall meet with and discuss the Board Policy with the accused.

Step Three

The Administrator

If the complaint is not resolved at Step Two above, it shall be stated in writing within ten (10) days of the decision rendered at Step Two,

signed by the complainant and submitted to the administrator as part of this procedure:

- 1) the name of the individual involved;
- 2) clearly state the facts giving rise to the complaint;
and
- 3) indicate the specific relief being sought.

Within ten (10) days after receiving the written complaint, the administrator shall investigate, give a written response to the complaint, and take appropriate action, including disciplinary measures where appropriate. The accused shall be informed of the investigation and shall have the opportunity to respond to the complainant's charges in writing. The administrator shall make the response part of the administrator's answer.

Step Four

The Board of Trustees

If the complaint is not resolved in Step Three, the complainant may, within ten (10) days of the receipt of the administrator's answer, appeal to the Board of Trustees by filing the complaint and the administrator's answer.

The Stony Creek School Board of Trustees shall hear the complaint at the next available Board meeting after receipt of any written complaint properly filed with the administrator's office and shall render a decision in writing within ten (10) days after such hearing. The decision shall contain the findings and disposition of the complaint, including corrective action, if any, the rationale for such disposition, notice of complaint's right to appeal the decision, and procedures to be followed for initiating an appeal to the State Department of Education.

Both the complainant and the accused shall be afforded a full and fair opportunity to present evidence relevant to the facts and to the issues raised by the complainant and may be represented at the hearing.

The complainant shall be furnished a copy of the decision of the Stony Creek School Board of Trustees.

The decision of the Stony Creek School Board of Trustees shall be final within the school district.

Step Five

State Department of Education

A complainant who is dissatisfied with the decision of the Stony Creek School Board of Trustees may appeal her/his decision to the State

Department of Education within 15 days of the decision.

The appeal shall:

- 1) Specify the reasons for appealing the administrator's decision; and
- 2) include a copy of the complaint filed with the district and a copy of the Stony Creek School Board of Trustees' decision.
- 3) General Matters

Failure to Observe Time Limits

In the event that the complainant fails to exhaust her/his remedies under the complaint procedure provided above, or to abide by the time limits with respect to each step, the complaint shall be presumed to be abandoned and the matter shall be settled in accordance to the district's last answer thereto. In the event the district fails to give its answer at any step within the time limits prescribed, the complainant shall have the right to proceed immediately to the next step. Any time limit may be extended by written mutual agreement of the complainant and the district.

Governing Law

Sexual harassment as defined above violates Title VII of the Civil Rights Act of 1964, regulator guidelines of the Equal Employment Opportunity Commission, California law, and School District Board Policy.

Complaints may be entitled to civil law remedies, including but not limited to injunctions, restraining orders, or other orders.

Violations of this policy shall constitute just and reasonable cause for discipline.

Legal References

Government Code Section 12940 (h)
Equal Employment Commission Guidelines
Education Code Sections 200, 212.5, 230, 262.3
Title VII of the Civil Rights Act of 1964
Title IX of the 1972 Education Amendments, Section 106.8
Title 5 of the California Code of Regulations, Section 4600 et seq.

Policy Adopted: July 28, 1993