

Sexual Harassment

The Solano County Office of Education (SCOE) desires to provide an environment free from harassment of any kind. SCOE prohibits sexual harassment of its employees and job applicants. SCOE also prohibits retaliatory behavior or action against its employees or other persons who complain, testify, or otherwise participate in the complaint process established pursuant to this policy and administrative regulation.

The County 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 SCOE'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.

Any SCOE employee or job applicant who feels that s/he 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, a SCOE administrator, or the County Superintendent/designee.

A supervisor, principal, or other SCOE administrator who receives a harassment complaint shall promptly notify the County Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with Policy 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 SCOE employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment against a SCOE employee, job applicant, or student is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

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 expressly 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

Policy 4119.11 (Continued)

- 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 SCOE

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 e-mails; 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 SCOE's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Compliance Officer

The County Superintendent designates the individual identified below as responsible for coordinating SCOE's response to complaints and ensuring compliance with state and federal civil rights laws. This individual also serves as the Compliance Officer specified in SCOE Policy 5145.3 — Nondiscrimination/ Harassment as the responsible employee to handle complaints regarding discrimination and sexual harassment. This individual shall receive and coordinate the investigation of complaints and shall ensure SCOE's compliance with law.

Name: Manolo Garcia

Title or Position: Associate Superintendent – Human Resources and
Educator Effectiveness

Work Address: 5100 Business Center Drive, Fairfield, CA 94534-1658

Telephone Number: (707) 399-4400

Email: complianceofficer@solanocoe.net

The Compliance Officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The Compliance Officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall the Compliance Officer be assigned to a complaint in which s/he has a bias or conflict of interest that would prohibit him/her from fairly investigating or resolving the complaint. Any complaint against a Compliance Officer, or that raises a concern about the Compliance Officer's ability to investigate the complaint fairly and without bias, may be filed with the County Superintendent or designee who shall determine how the complaint will be investigated.

Policy 4119.11 (Continued)

The County Superintendent or designee shall ensure that employees designated to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall include current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Designated employees may have access to legal counsel as determined by the County Superintendent or designee.

The Compliance Officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the Compliance Officer or the administrator shall consult with the County Superintendent, the County Superintendent's designee, or, if appropriate, the site supervisor to implement, if possible, one or more interim measures. The interim measures may remain in place until the Compliance Officer determines that they are no longer necessary or until SCOE issues its final written decision, whichever occurs first.

SCOE strongly encourages any employee who feels that they are being or have been sexually harassed by a SCOE employee, or a non-employee at work or at a work-related activity to immediately contact their supervisor. An employee who receives such a report or observes an incident of sexual harassment shall notify their supervisor or SCOE's Compliance Officer. Once notified, the supervisor or Compliance Officer shall immediately take the steps to investigate and address the allegation in accordance with administrative regulation.

When the supervisor or Compliance Officer determines that sexual harassment has occurred, they shall take prompt, appropriate action to end the sexual harassment and address its effects on the victim. The supervisor or Compliance Officer shall file a report with the County Superintendent or designee and refer the matter to law enforcement authorities, where required.

Sexual Harassment Complaints

Complaints of sexual harassment, or any behavior prohibited by this policy shall be handled in accordance with the following procedure:

Notice and Receipt of Complaint: Any employee who believes they have been subjected to sexual harassment by another employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to their supervisor. Without delay the supervisor shall forward the complaint to SCOE's Compliance Officer. In addition, any SCOE employee who observes any incident of sexual harassment involving an employee shall report this observation to their supervisor or the Compliance Officer, whether or not the alleged victim files a complaint.

When a verbal or informal report of sexual harassment is submitted, the supervisor or Compliance Officer shall inform the employee of the right to file a written complaint in accordance with SCOE's uniform complaint procedures. Regardless of whether a formal complaint is filed, the Compliance Officer shall take steps to investigate the allegations and, if sexual harassment is found, shall take prompt action to stop it, prevent recurrence, and address any continuing effects.

The Compliance Officer shall contact the complainant and investigate and resolve the complaint in accordance with law and SCOE's procedures specified in Policy 1312.3.

Policy 4119.11 (Continued)

In any case of sexual harassment involving the Compliance Officer, or any other SCOE employee to whom the complaint would ordinarily be reported or filed, the report may instead be submitted to the County Superintendent or designee who shall determine who will investigate the complaint.

Training

Every two years, the County 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.

SCOE'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.

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

Notifications

A copy of SCOE's policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building or other area of the workplace where notices of SCOE 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 first quarter or semester of the school year or whenever a new employee is hired
3. Appear in any SCOE publication that sets forth SCOE'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 SCOE information sheets that contain, at a minimum, components on:

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. SCOE'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
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

OFFICE OF THE SOLANO COUNTY SUPERINTENDENT OF SCHOOLS

Policy 4119.11 (Continued)

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

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 Posting of information on harassment and discrimination

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

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

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Policy Cross-Reference:

0410 Nondiscrimination in District Programs and Activities

4030 Nondiscrimination in Employment

4031 Complaints Concerning Discrimination in Employment

4112.9 Employee Notifications

4117.4 Dismissal

4118 Dismissal/Suspension/Disciplinary Action

4119.12 Title IX Sexual Harassment Complaint Procedures