

ADMINISTRATIVE CIRCULAR NO. 29
Office of the Superintendent

SAN DIEGO CITY SCHOOLS

Date: October 3, 2005

To: Principals, Child Center Administrators, Division and Department Heads

Subject: SEXUAL HARASSMENT BROCHURE DISTRIBUTION

**Department and/or
Persons concerned:** All Employees

Due Date: November 4, 2005

Reference: Government Code, SECTION 1. Section 12950.1

Action requested: Distribute sexual harassment brochures and return sexual harassment distribution list(s) to Human Resources by November 4, 2005.

Brief Explanation:

All district employees must be annually notified of sexual harassment policies. It is desirable, but not mandatory, to distribute the brochures at a staff meeting and for the manager to engage in a brief discussion on this topic.

In order to notify all employees, please follow these instructions:

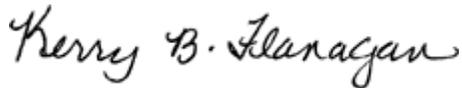
1. Determine who will be responsible for coordinating the sexual harassment brochure distribution at your site.
2. If an employee's name is on the printout, please give the employee a sexual harassment brochure and either check off their name on the list, or have the employee initial by their name (refer to Sample List – Attachment 1.) If an employee on the list is on long term sick leave or is offsite for an extended period of time, use U.S. mail and note such on the printout.
3. If an employee's name is NOT on the printout, but the employee is currently located at your site, please add the employee's name and employee identification number to the printout, and distribute a brochure to that employee.
4. If an employee's name is on the printout, but the employee is NOT currently located at your site, please explain on the printout what happened to the employee: Resigned (When?), Transferred (When? Where?), etc.

5. Complete the task by ensuring that all of your employees are accounted for and listed on the printouts, with initials or checkmarks, and appropriate notations. Your signature indicates you have completed this distribution project.
6. Return the original, completed printout by November 4, 2005, to the Human Resource Services Division, Eugene Brucker Education Center, Room 1241, to the attention of Grace Gutierrez. Please retain any unused brochures at your site for future use. If you are unable to meet this deadline, notify the Human Resources Services Division via email at ggutierrez@sandi.net by the November 4, 2005 deadline.

If you have any questions about this process, please call Grace Gutierrez at (619) 725-8114.

Ruth G. Peshkoff
Chief Human Resources Officer

APPROVED:



Kerry Flanagan
Chief of Staff

KF:mk

Attachments (2) will be mailed separately

Distribution: Lists A, D, E, and F

ENFORCEMENT

Each work site supervisor, manager, and administrator has full responsibility for maintaining a work environment free of sexual harassment. Work site managers shall take appropriate actions to reinforce the district's sexual harassment policy. These actions will include:

1. Ensuring the California Department of Fair Employment and Housing poster is placed on an appropriate bulletin board for employees.
2. Maintaining an available supply of the policy and the district's brochures and materials regarding this policy.
3. Prompt removal of vulgar or sexually offensive graffiti or other displays.
4. Providing annual staff in-services.
5. Taking appropriate disciplinary action as needed.
6. All supervisors, managers, and administrators shall instruct employees on the procedure for reporting sexual harassment on an as needed basis.
7. Employees determined to have violated district prohibition against sexual harassment shall be subject to disciplinary action up to and including termination from employment. District actions may include, but are not limited to:
 - a. Verbal and/or written warnings.
 - b. Written reprimands.
 - c. Suspension with or without pay.
 - d. Reassignment to another work location.
 - e. Demotion and/or termination.

CONFIDENTIAL

District employees involved in processing sexual harassment complaints shall endeavor in good faith to protect the privacy for all parties involved in the complaint process. Files pertaining to sexual harassment complaints shall not be made available to the general public.

PROTECTION AGAINST RETALIATION

San Diego Unified School District policy, state law, and the federal law forbid reprisal or retaliation against any employee who opposes sexual harassment, files a complaint, testifies, or assists or participates in any manner in an investigation, proceeding or hearing.

Other Types of Discrimination Complaints

Complaints from employee(s), volunteer(s), and applicant(s) of a violation of a district policy or a state or federal regulation prohibiting discrimination on the basis of race, color, national origin, religious creed, age, sex, sexual orientation, marital status, or disability may be filed directly with the Director, Classified Personnel or the appropriate Certificated Staffing Administrator at any stage.

- Eugene Brucker Education Center
4100 Normal Street, Rm 1241
San Diego, CA 92103
(619) 725-8022
www.sandi.net

Also, complaints may be filed externally to the state or federal agency at any time. The names and addresses of these agencies are:

- The California Department of Fair Employment and Housing (DFEH)
1350 Front Street, Suite 3005
San Diego, CA 92101
www.dfeh.ca.gov
- The U.S. Equal Employment Opportunity Commission (EEOC)
401 B Street, Suite 510
San Diego, CA 92101
www.eeoc.gov

If the state or federal agency finds that a complaint is justified, it has the power to issue a "cease and desist" order to prevent further unlawful activity and order the violator to pay large fines. It also may order that the wronged party be hired, given back pay, reinstated, promoted, or granted damages for emotional distress.

Uniform Complaint Procedure Notice

The district is primarily responsible for compliance with federal and state laws and regulations. Individuals or organizations may file a complaint with the district if they believe a federal or state law or regulation has been violated in the following programs:

- Adult Basic Education
- Child Nutrition
- Child Care and Development Programs
- Consolidated Categorical Aid Programs
- Migrant Education
- Special Education
- Vocational Education
- School Safety Planning Requirements

Complaints should be filed with the Office of General Counsel. An investigation or mediation will be concluded within sixty (60) calendar days of receipt of the complaint. Complaints alleging unlawful discrimination must be initiated no later than six (6) months from the date the alleged discrimination occurred or the date the complainant first obtained knowledge of the facts of the alleged discrimination. The complainant has a right to appeal the district's decision to the California Department of Education within fifteen (15) days of receiving the district's written decision.

A complaint may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until sixty (60) days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately and, in a timely manner, apprised the complaint of his/her right to file a complaint in accordance with the Uniform Complaint Procedures.

Sexual Harassment



It's Against the Law

San Diego Unified School District

October 2005

Sexual Harassment

Board Policy and Administrative Regulation

All Employees and Volunteers

The district prohibits sexual harassment in the work place and shall act promptly, visibly and vigorously in demonstrating strong disapproval of sexual harassment in the work place. The superintendent or designee shall develop appropriate procedures to ensure that employees have a work place free of sexual harassment and to provide a mechanism for resolution of complaints of sexual harassment.

San Diego Unified School District (SDUSD) is committed to providing its employees, volunteers, and students with an environment that is free of sexual harassment. Sexual harassment is strictly prohibited by the district and is against state and federal laws.

The purpose of this publication is to ensure that all district employees and volunteers know:

- that sexual harassment is strictly prohibited by SDUSD and by Federal and State laws;
- what sexual harassment is;
- the procedures to handle complaints of sexual harassment;
- that SDUSD, and federal and state laws prohibit retaliation for reporting sexual harassment. Please note that you may report such activities even though you are not the target of the harassment;
- that if you, as an employee, are found guilty of sexual harassment, you may be personally liable for monetary damages. SDUSD will not pay damages assessed against you personally and you will be subject to discipline.

Definition of Sexual Harassment

Pursuant to Education Code 212.5, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, status, or promotion.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee.
3. The harassment substantially interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.
4. Submission to, or rejection of, the conduct is the basis for a decision affecting benefits, services, honors, programs, or other available activities.

Examples of Sexual Harassment

Some examples of sexual harassment are:

1. Making unsolicited written, verbal or physical contact with sexual overtones.
2. Visual conduct: leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, or posters.
3. Verbal conduct: making or using derogatory comments, epithets, slurs, and jokes.
4. Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations.
5. Physical conduct: touching, assault, impeding or blocking movements.
6. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction is not considered sexual harassment.)

7. Making reprisals, threats of reprisal, or implied threats of reprisal following negative response. For example, either implying or actually withholding support for an appointment, promotion or change of assignment; suggesting a poor performance report will be prepared; or suggesting probation will be failed.
8. Engaging in implicit or explicit coercive sexual behavior which is used to control, influence or affect the career salary and/or work environment of another employee.
9. Offering favors or employment benefits, such as promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations or reclassifications, in exchange for sexual favors.

COMPLAINT PROCESS

San Diego Unified School District strongly encourages its employees and students to report any incidents of sexual harassment **immediately** so that complaints can be quickly and fairly resolved. If you have a complaint, the following procedure is appropriate:

1. When possible and/or practical, speak to the harasser and persuade him/her to stop. The harasser may not realize the advances or behaviors are offensive. Sometimes a simple conversation will end the situation.
2. If you do not wish to speak to the harasser, report incidents of sexual harassment to any supervisor, manager, or administrator at the school site or in the department where you are working. If there is no supervisor, manager, or administrator to whom the employee is comfortable reporting the incident, the report may be made to the next higher level in the chain of command.
3. Any supervisor, manager, or administrator who has received a report, verbally or in writing, from any employee regarding sexual harassment of that employee or another employee by an adult in the workplace must forward the report to the Director, Classified Personnel or the

- appropriate Certificated Staffing Administrator.
4. All complaints of sexual harassment will be investigated and promptly resolved.
5. Upon receipt of an allegation of sexual harassment, the Director, Classified Personnel or the appropriate Certificated Staffing Administrator will designate an investigator who will initiate an investigation into the complaint.

RECORDS

Copies of all reports of sexual harassment shall be forwarded to the Director, Classified Personnel or the appropriate Certificated Staffing Administrator who will be responsible for maintaining overall district records of incidents.

Legal Reference:

EDUCATION CODE

- 200et al. Prohibition of discrimination on the basis of sex
- 212.5 Sexual harassment, defined
- 230 Particular practices prohibited, including sexual harassment

TITLE VII, CIVIL RIGHTS ACT as amended by Title IX, Equal Employment Opportunity Act.

Policy
Adopted: October 12, 1979 San Diego Unified School District
Revised: May 5, 1995 San Diego, California

At any stage, a complainant may file directly with Ruth Peshkoff, Chief Human Resources Officer, Human Resource Services Division at (619) 725-8141.