SEXUAL HARASSMENT

Student Sexual Harassment

LACOE is committed to maintain a safe school environment that is free from harassment and discrimination. LACOE prohibits sexual harassment by anyone participating in any LACOE program or activity. This includes student-to-student or peer sexual harassment as well as harassment between a student and any LACOE participant. LACOE shall take all complaints of sexual harassment seriously, investigate and address identified sexual harassment, and if the investigation results in the determination that sexual harassment has occurred, take reasonable, immediate corrective action to stop the harassment, eliminate a hostile environment, and prevent future sexual harassment. LACOE also prohibits retaliatory behavior or action against any person who reports, files a complaint or testifies about, or otherwise supports a complainant in alleging sexual harassment. To the extent possible, complaints shall be kept confidential. For situations of harassment or suspected harassment involving LACOE staff, Superintendent Policy on Personnel is applicable.

LACOE strongly encourages any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity by another student or an adult to immediately contact his/her teacher, the principal, or any other available school employee. Any employee who receives a report or observes an incident of sexual harassment shall notify the principal or a LACOE administrator.

Legal Reference: Title VI, Title VII, Title IX, Education Code 40, 41, 221.5 et seq., 33032.5, 35294 et seq., 48900 et seq.

Complaints regarding sexual harassment shall be investigated and resolved in accordance with law and LACOE procedures specified in AR 1312.3 - Uniform Complaint Procedures. Each LACOE site is responsible for notifying students and parents/guardians that complaints of sexual harassment can be filed under AR 1312.3 and where to obtain a copy of the procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

The Superintendent or designee shall take appropriate actions to reinforce LACOE’s sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti

(cf. 5131.5 - Vandalism and Graffiti)

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
SEXUAL HARASSMENT (continued)

3. Disseminating and/or summarizing LACOE’s policy and regulation regarding sexual harassment

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Instruction/Information

The County Superintendent or designee will ensure that all LACOE students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex

2. A clear message that students do not have to endure sexual harassment

3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained

4. A clear message that student safety is LACOE’s primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved

5. Information about LACOE’s procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
SEXUAL HARASSMENT (continued)

6. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable

(cf. 5131.5 - Vandalism and Graffiti)
(cf. 5137 - Positive School Climate)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

Notice of LACOE Policy

1. Each LACOE site will inform LACOE Participants of this Sexual Harassment Policy along with the name, title, address and phone number of the Principal or designee.

2. This Notice will include a statement of policy, definitions, how to file a complaint, confidentiality of any investigations into complaints, LACOE’s policy against retaliation for complaints, and the disciplinary consequences of substantiated claims of harassment and false claims.

3. Notices of the Sexual Harassment Policy will be included in the Annual Notice to all students and parents, which students and parents shall receive at the beginning of the year or upon enrollment.


Disciplinary Actions

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For LACOE, disciplinary action may include suspension and/or involuntary release to student’s district of residence, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5131 - Conduct)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Any staff member found to have engaged in sexual harassment or sexual violence toward any student shall be subject to discipline up to and including dismissal in accordance with applicable policies, laws, and/or collective bargaining agreements.

cf. 4117.4 - Dismissal)
(cf. 4117.7 - Employment Status Report)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
SEXUAL HARASSMENT (continued)

Confidentiality and Record-Keeping

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

The County Superintendent or designee will maintain a record of all reported cases of sexual harassment to enable LACOE to monitor, address, and prevent repetitive harassing behavior in the schools.

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

UNITED STATES CODE, TITLE 20
1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX, discrimination

UNITED STATES CODE, TITLE 42
1983 Civil action for deprivation of rights
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy
106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS
Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
SEXUAL HARASSMENT (continued)

Management Resources:
CSBA PUBLICATIONS
Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Questions and Answers on Title IX and Sexual Violence, April 2014
Dear Colleague Letter: Sexual Violence, April 4, 2011
Sexual Harassment: It's Not Academic, September 2008
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001
WEB SITES
CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr
**SEXUAL HARASSMENT**

LACOE designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 and California Education Code 234.1, as well as to investigate and resolve sexual harassment complaints under AR 1312.3 - Uniform Complaint Procedures. The coordinator/compliance officer(s) may be contacted at:

Hector Murrieta, Chief Educational Programs Officer  
Position Title

9300 Imperial Highway, Downey, CA 90242  
Address

(562) 803-8301  
Telephone Number

(cf. 1312.3 - Uniform Complaint Procedures)

**Definitions**

1. Complainant: the person(s) subject to sexual harassment.

2. Alleged Harasser: person(s) identified as sexually harassing the Target.

3. LACOE Participant: includes students, employees of LACOE, guests and other individuals involved in LACOE programs and activities.


5. Program: any program sponsored by LACOE.

6. Activity: any activity sponsored by LACOE.

7. Sexual harassment: unwelcome attention of a sexual nature that interferes with the educational performance, learning environment and/or full participation in a LACOE program or activity by any individual. Sexual harassment may, for example, come in physical (including but not limited to pinching, touching, patting, or blocking movements), visual (including but not limited to posters, cartoons, sketches, gestures or other visual displays of a clearly sexual nature), or verbal (including but not limited to spoken or written comments of a clearly sexual nature) forms and may be used to intimidate or to coerce.

*Legal Reference: Title VI, Title IX, OCR Guidelines, Education Code 212.5, 221.5, PC 243.4*
SEXUAL HARASSMENT (continued)

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 educational setting, when made on the basis of sex and under any of the following conditions: (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 conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, 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 any LACOE program or activity

Examples of types of conduct that are prohibited at LACOE and that may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions

2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions

3. Graphic verbal comments about an individual’s body or overly personal conversation

4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature

5. Spreading sexual rumors

6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class

7. Massaging, grabbing, fondling, stroking, or brushing the body

8. Touching an individual’s body or clothes in a sexual way

9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
SEXUAL HARASSMENT (continued)

10. Displaying sexually suggestive objects

11. Sexual Assault, sexual battery, or sexual coercion

School-Level Complaint Process/Grievance Procedure

1. Notice and Receipt of Complaint: Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within one school day of receiving a complaint, the school employee shall report it to the Principal or LACOE’s compliance officer identified in AR 1312.3. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within one school day, report this observation to the Principal or LACOE compliance officer, whether or not the victim files a complaint.

In any case of sexual harassment involving the Principal, compliance officer, or any other person to whom the complaint would ordinarily be made, the employee who receives the student’s report or who observes the incident shall instead report to Labor Relations.

When a report of sexual harassment is submitted, the principal or compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with LACOE’s uniform complaint procedures.

If a complaint of sexual harassment is initially submitted to the principal, he/she shall, within two school days, forward the report to the compliance officer to initiate investigation of the complaint. The compliance officer shall contact the complainant and investigate and resolve the complaint in accordance with law and LACOE procedures specified in AR 1312.3.

Confidentiality

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

However, when a complainant or victim of sexual harassment notifies LACOE of the harassment but requests confidentiality, the compliance officer shall inform him/her that the request may limit LACOE’s ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, LACOE will nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant or victim of sexual harassment notifies LACOE of the harassment but requests that LACOE not pursue an investigation, LACOE will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students.
SEXUAL HARASSMENT (continued)

(cf. 4119.23/4219.23/4319.23 Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

Response Pending Investigation

When an incident of sexual harassment is reported, the principal or designee, in consultation with the compliance officer, shall determine whether interim measures are necessary pending the results of the investigation. The principal/designee or compliance officer shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. Such measures may include placing the individuals involved in separate classes or transferring a student to a class taught by a different teacher, in accordance with law and Board policy. The school should notify the individual who was harassed of his/her options to avoid contact with the alleged harasser and allow the complainant to change academic and extracurricular arrangements as appropriate. The school should also ensure that the complainant is aware of the resources and assistance, such as counseling, that are available to him/her. As appropriate, such actions shall be considered even when a student chooses to not file a formal complaint or the sexual harassment occurs off school grounds or outside school-sponsored or school-related programs or activities.

Notifications

A copy of LACOE’s sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)

4. Appear in any school or district publication that sets forth the school’s or district’s comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)