

Administrative Regulation

Harassment on the Basis of an Individual's Sex - Certificated/Classified Employees

Definition: Sexual harassment has been defined by federal and state regulations as a form of sex discrimination. Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, 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:

- a) Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment;
- b) Submission to or rejection of such conduct by an individual is used as the basis of an employment decision affecting such individual;
- c) Such conduct unreasonably interferes with an individual's work performance or of creating creates an intimidating, hostile, or offensive work or educational environment;
- d) 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 district.

In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

Examples: If sufficiently severe or pervasive, the following conduct, whether committed by a supervisor, other employee, or non-employee, may constitute sexual harassment:

- (a) Unwelcome leering, sexual flirtations or propositions.
- (b) Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions.
- (c) Unwelcome graphic verbal comments about an individual's body, overly personal conversations, or pressure for sexual activity.

- (d) Unwelcome sexual jokes, notes, stories, drawings, pictures, gestures, graffiti, or sexually explicit e-mails.
- (e) Unwelcome sexual rumors.
- (f) Unwelcome touching an individual's body or clothes in a sexual way, massaging, grabbing, fondling, stroking, or brushing the body.
- (g) Unwelcome cornering, blocking, leaning over, or impeding normal movements.
- (h) Unwelcome displays of sexually suggestive objects in the educational or work environment.
- (i) Any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Notifications: The district's policy on sexual harassment in employment shall:

- (a) Be displayed in a prominent location near each school principal's office.
- (b) Be provided to each employee at the beginning of the first quarter or semester of the school year, or whenever a new employee is hired.
- (c) Appear in any school or district publication that sets forth the school or district's comprehensive rules, regulations, procedures, and standards of conduct.
- (d) All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing or a copy of district 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) The district's complaint process available to the employee.

- (5) The legal remedies and complaint process available through the Department of Fair Employment and Housing.
- (6) Directions on how to contact the California Department Fair Employment and Housing.
- (7) The protection against retaliation for opposing unlawful harassment, filing a complaint, or participating in the complaint process.

Responsibility:

Each principal and supervisor has the responsibility of maintaining an educational and work environment free of sexual harassment. This responsibility includes discussing the district's sexual harassment policy with his/her employees and assuring them that they are not required to endure sexually insulting, degrading, or exploitative treatment or any other form of sexual harassment.

Any employee having knowledge of conduct by another employee, volunteer, student, or individual in the school community which may constitute sexual harassment is required to immediately report such conduct to any of the individuals specified in this administrative regulation.

Employees are hereby placed on notice that if an employee engages in acts which the district determines to be acts of sexual harassment, such acts are outside of the scope and course of the employee's employment. Such conduct may result in the employee having to obtain his or her own legal counsel, and sexual harassment or unlawful discrimination may result in a money judgment against the employee personally.

Private, personal, consensual conduct may at some point become unwelcome. Any employee advised that a fellow employee now believes certain conduct to be unwelcome shall cease such conduct immediately. Any conduct of a sexual nature following such notice may be determined to be sexual harassment. Employees who participate in a consensual relationship, and who at some point wish to discontinue the relationship, should tell the other participant, either verbally or in writing, that the conduct is no longer consensual or welcome and therefore all such conduct must cease.

All employees shall cooperate with any investigation of an alleged act of sexual discrimination/harassment conducted by the district or by an appropriate state or federal agency. No employee of the district shall take any action to discourage anyone from reporting any incidents of sexual discrimination or harassment.

Training:

Every two years, supervisory employees shall receive at least two hours of classroom or other effective training and education regarding sexual harassment in accordance with Government Code section 12950.1 and 2 Cal. Code Regs. 7288 et seq. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position.

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Ref: EC Sections 200-231.5
Government Code Sections 12900-12940, et seq.
34 CFR 106.9
Title VII (Civil Rights Act of 1964 as amended, 42 USC §2000(d) (e), et. seq.)
Title IX (Educational Amendments Act of 1972, 42 USC §1681, et seq.)

Meritor Savings Bank v. Vinson, 447 U.S. 57 (1986)
Franklin v. Gwinett County Schools, 503 U.S. 60 (1992)
Harris v. Forklift Systems, 510 U.S. 17 (1993)
Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)
Clark County v. Breeden, 121 S.Ct. 1508 (2001)

Approved: February 3, 1977
Revised: August 27, 1979
Revised: March 4, 1986
Revised: July 1, 1988
Revised: April 18, 1989
Revised: May 2, 1989
Revised: May 18, 1993
Revised: July 1, 2000
Revised: September 2, 2003
Revised: August 17, 2004
Revised: May 2, 2008
Revised: August 16, 2011
Revised: May 15, 2012

**GARDEN GROVE UNIFIED SCHOOL DISTRICT
DISCRIMINATION/HARASSMENT/RETALIATION COMPLAINT FORM**

Instruction Sheet

Administrative Regulations 4010.1, 4012.1

INSTRUCTIONS FOR COMPLETING THE FORM:

Print the form. Upon completion of the form, sign it and mail or deliver it to the address below. "Today's Date" refers to the date that you complete the form.

FILING A DISCRIMINATION COMPLAINT

The district prohibits discrimination and harassment of any person employed by or seeking employment with the district on the basis of actual or perceived race, color, ancestry, national origin, citizenship, ethnic group identification, religion, age (40 or older), marital status, pregnancy, sexual orientation, gender, gender identity, gender expression, physical or mental disability, medical condition (cancer related or genetic characteristics), genetic information (including family medical history), service in the uniformed services (as determined by the Uniformed Services Employment and Reemployment Act of 1994), or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics. If you feel that you have been subjected to discrimination or harassment by your supervisor, co-worker(s), or anyone in the workplace, based on any of the above protected bases, or subjected to retaliation for engaging in a protected activity, please complete the following form and mail or deliver it to the Assistant Superintendent of Personnel Services, Coordinator for Nondiscrimination.

- (1) **Name of Complainant:** The name of the person who is filing the complaint.
- (2) **Status:** Indicate whether you are a certificated or classified employee, an applicant, former employee, or if you have another affiliation with the district.
- (3) **Complainant's Department:** If you are an employee, the department in which you work; if you are a former employee, the department in which you worked.
- (4) **Contact Information:** Provide the phone number(s), e-mail, and mailing address where you can be reached.
- (5a) Please check the appropriate box on the other side of this form to identify the basis for which you feel you have been subjected to discrimination, harassment, or retaliation:
- (5b) **Sexual Harassment:** If you feel that you have been sexually harassed, please check "Yes" in the appropriate box on the other side of this form.
- (5c) **Retaliation:** If you believe you have been retaliated against for engaging in a protected activity, such as filing a complaint of discrimination or harassment, please check "Yes" in the appropriate box on the other side of this form.
- (6) **Date(s):** (month, day, and year): Dates of alleged incident(s) of discrimination/harassment/retaliation.
- (7) **Complaint:** Be as specific as possible. Include the following information: name of individual(s) who discriminated against you, what happened, and why you believe the discrimination was related to any basis listed in section 5 (race, color, etc.). If you have any witnesses, please provide contact information. Attach additional sheets if necessary.
- (8) **Government Agency:** If you have filed a complaint with a government agency (DFEH, EEOC, etc.), check "Yes", the agency with which you filed, and provide the date you filed.
- (9) **Resolution:** What actions will resolve your complaint (e.g., training opportunity, cease the alleged behavior, etc.)?
- (10) **Signature:** Sign and mail or deliver the completed form to the address on the form.

Attach any additional documentation which supports your claim of discrimination/harassment/retaliation. Information and assistance in completing this Complaint Form may be obtained from the Assistant Superintendent of Personnel Services, Coordinator for Nondiscrimination, (714) 663-6464.

(over)

**GARDEN GROVE UNIFIED SCHOOL DISTRICT
DISCRIMINATION/HARASSMENT/RETALIATION COMPLAINT FORM**

1. **Name of Complainant:** _____
2. **Check one:**
 Certificated Employee Classified Employee Former Employee
 Applicant Other: _____
3. **Complainant's Department (if employed at District):** _____
4. **Contact Information:** Phone(s): _____ E-mail: _____
Mailing Address: _____
5. a. **I believe I was subjected to** **discrimination** **harassment** **because of my:**
- | | | |
|-------------------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> Race | <input type="checkbox"/> Disability (physical or mental) | <input type="checkbox"/> Citizenship |
| <input type="checkbox"/> Color | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Marital Status |
| <input type="checkbox"/> Age (40 and over) | <input type="checkbox"/> Sex (Gender) | <input type="checkbox"/> National Origin/Ancestry |
| <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Service in the Uniformed Services | <input type="checkbox"/> Gender Expression |
| <input type="checkbox"/> Pregnancy | <input type="checkbox"/> Religion | <input type="checkbox"/> Ethnic Group Identification |
| <input type="checkbox"/> Medical Condition (<i>cancer related or genetic characteristics</i>) | | |
| <input type="checkbox"/> Genetic Information (<i>including family medical history</i>) | | |
| <input type="checkbox"/> Other (please specify) _____ | | |
- b. **I believe I have been sexually harassed** Yes No
- c. **I believe I have been retaliated against based on a protected activity** Yes No
6. **Date(s) of alleged discrimination/harassment/retaliation:** _____
7. **State your complaint:** (*Attach additional sheets if necessary*)

8. a. **Have you filed a complaint with a government agency regarding this situation?** Yes No
b. **If yes, please indicate agency name and date complaint was filed:** DFEH EEOC Other: _____
Date Filed: _____
9. **What would you consider to be a successful or acceptable outcome/resolution to your complaint?**

10. **Signature:** _____ **Date:** _____

Please mail or deliver completed form to:
Assistant Superintendent of Personnel Services
Garden Grove Unified School District
10331 Stanford Avenue
Garden Grove, California 92840