

LODI UNIFIED SCHOOL DISTRICT

Policy 4119.11

4219.11

4319.11

REVISION

Personnel

Sex Discrimination and Sex-based Harassment ~~Sexual Harassment~~

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Board of Education is committed to providing a safe work environment that is free of discrimination, harassment and intimidation. The Board prohibits sexual discrimination, including sex-based harassment, as defined in the accompanying rule, in district programs and activities by and against district employees.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy.

~~The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation.~~

Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

The 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~~ **Board rule**
2. Publicizing and disseminating the district's ~~sexual harassment~~ **sex discrimination and sex-based harassment** policy to ~~staff~~ **employees and others to whom the policy may apply**

3. Ensuring prompt, thorough, ~~and~~ **fair, and equitable** investigation of complaints **through the appropriate state and/or federal procedures**
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
5. **Publicizing, in accordance with 34 CFR 106.8 and as specified in Administrative Regulation 4030 - Nondiscrimination in Employment, a Title IX notice of nondiscrimination to employees, applicants for employment, and bargaining units**

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training, as appropriate and in accordance with law.

Reports and Complaints

~~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 district employee or job applicant who feels that he/she they has have 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 their supervisor, the principal, district administrator or the Assistant Superintendent, Personnel.~~

~~A supervisor, principal or other district administrator who receives a harassment complaint shall notify the Assistant Superintendent, Personnel.~~

~~Complaints of sexual harassment shall be filed in accordance with Board Rule 4030—Nondiscrimination in Employment. An employee may bypass his/her their supervisor in filing a complaint where the supervisor is the subject of the complaint.~~

~~Any district employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a district employee, job applicant, or student is in violation of this policy and is subject to disciplinary action, up to and including dismissal.~~

Any district employee who has experienced sex discrimination or sex-based harassment in the district's education program or activity may file a complaint with the district's Title IX Coordinator.

Any employee with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment by or against another district employee, a student, or a third party in a district education program or activity shall notify the Title IX Coordinator within one workday. An employee may be subject to discipline for failure to timely report such conduct.

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Board Rule 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures or Board Rule 4030 Nondiscrimination in Employment, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of Board Rule 4119.12/4219.12/4219.12/4319.12 concurrently meets the requirements of Board Rule 4030.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.

Upon investigation of a sexual harassment complaint, any district employee found to have engaged or participated in sexual harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

Legal References: CA CODE OF REGULATIONS, TITLE 2
11006-11086 Discrimination in employment
11009 Employment discrimination
11021 Discrimination in employment – retaliation
11023 Harassment and discrimination prevention and correction

11024 Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
11034 Terms, conditions, and privileges of employment
4900-4965 Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

EDUCATION CODE

200-262.4 Prohibition of discrimination ~~on the basis of sex,~~
especially:

220.1 Prohibition of retaliation related to educational equity

220.3 Prohibition of disclosure of information related to student's sexual orientation, gender identify, or gender expression

220.5 Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 ~~Prohibited discrimination~~ Unlawful discriminatory employment practices

12950 Sexual harassment

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

1197.5 Wages, hours, and working conditions

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

7288.0 Sexual harassment training and education

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

1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

2000gg-2000gg-6 Pregnant Workers Fairness Act

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 29

Implementation of the Pregnant Workers Fairness Act

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.82 Nondiscrimination on the basis of sex in education programs

~~106.9 Dissemination of policy~~

Management Resources

COURT DECISIONS

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

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

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

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

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

Web Sites

California School Boards Association

California Department of Education

California Civil Rights Department

U.S. Department of Education, Office for Civil Rights

Equal Employment Opportunity Commission

Policy

adopted: 04/21/98

revised: 05/21/02

revised: 09/21/04

revised: 04/04/06

revised: 04/19/16