

**County Office Regulation 5145.7: Sex Discrimination and Sex-Based Harassment**

**Status:** ADOPTED

**Original Adopted Date:** 01/05/2021 | **Last Reviewed Date:** 01/05/2021

The Napa County Superintendent of Schools designates the following individual(s) as the responsible employee(s) to coordinate the Napa County Office of Education's (NCOE) 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 the NCOE's uniform complaint procedures (UCP). The coordinator/compliance officer(s) may be contacted at:

Deputy Superintendent  
2121 Imola Avenue  
Napa, CA 94559  
(707) 253-6819  
jschultz@napacoe.org

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, 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 NCOE program or activity.

Examples of types of conduct which are prohibited and which 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
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion

## 12. Electronic communications containing comments, words, or images described above

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities shall be regarded as sexual harassment in violation of NCOE policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

### **Reporting Process and Complaint Investigation and Resolution**

Any students who believe that they have been subjected to sexual harassment by another student, an employee, or a third party or who have witnessed sexual harassment are strongly encouraged to report the incident to a teacher, the principal or program administrator, or any other available NCOE employee. Within one school day of receiving such a report, the report shall be forwarded to the County Superintendent and to the NCOE's compliance officer regardless of whether or not the alleged victim files a complaint. In addition, any NCOE employee who observes an incident of sexual harassment involving a student shall, within one school day, report the observation to the County Superintendent or the NCOE compliance officer. The employee shall take these actions whether or not the alleged victim files a complaint.

If the County Superintendent or compliance officer determines a complaint of sexual harassment involves off-campus conduct and the conduct may create or contribute to the creation of a hostile school environment, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

When a verbal or informal report of sexual harassment is submitted, the student or parent/guardian shall be informed of the right to file a formal written complaint in accordance with the NCOE's UCP. The allegations shall be investigated regardless of whether a formal complaint is filed and, if sexual harassment is found, prompt action shall be taken to stop the harassment, prevent recurrence, and address any continuing effects.

If a complaint of sexual harassment is initially submitted to the County Superintendent or a program administrator or principal, the report shall, within two school days, be forwarded 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 the NCOE's UCP.

In investigating a sexual harassment complaint, evidence of past sexual relationships of the victim shall not be considered, except to the extent that such evidence may relate to the victim's prior relationship with the respondent.

In any case of sexual harassment involving the principal, compliance officer, or any other person to whom the incident 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.

### **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 requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the ability to investigate the harassment or take other necessary action. When honoring a request for confidentiality, the NCOE shall nevertheless take all reasonable steps to investigate and respond to the complaint consistent with the request.

When a complainant or victim of sexual harassment requests that the NCOE not pursue an investigation, the compliance officer shall determine whether or not the NCOE can honor such a request while still providing a safe and nondiscriminatory environment for all students.

### **Response Pending Investigation**

When an incident of sexual harassment is reported, the County Superintendent or designee shall take immediate measures necessary to stop the harassment and protect students and/or ensure their access to the educational program. To the extent possible, such interim measures shall not disadvantage the complainant or victim of the alleged harassment. Interim 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 NCOE policies and regulations. The school should notify the individual who was harassed of available 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. 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.

### **Record-Keeping**

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

### **Instruction/Information**

Students in all NCOE programs shall receive age-appropriate 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 and could involve sexual violence
  2. A clear message that students do not have to endure sexual harassment under any circumstance
  3. Encouragement to report observed incidents of sexual harassment even where the alleged victim of the harassment has not complained
  4. A clear message that student safety is the NCOE'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. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sexual harassment allegation that involves a student, whether as the complainant, respondent, or victim of the harassment, shall be investigated and prompt action shall be taken to stop any harassment, prevent recurrence, and address any continuing effect on students
  6. Information about the NCOE's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
  7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the NCOE investigation of a sexual harassment complaint continues
  8. A clear message that, when needed, interim measures will be taken to ensure a safe school environment for a student who is the complainant or victim of sexual harassment and/or other students during an investigation, and that, to the extent possible, when such interim measures are taken, they shall not disadvantage the complainant or victim of the alleged harassment
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