

# Perris Union HSD

## Board Policy

### Sexual Harassment

All Personnel

BP 4119.11

4219.11

SEXUAL HARASSMENT

4319.11

**Cautionary Notice:** The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, portions of the following administrative regulation will not take effect.

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 Governing Board is committed to providing a safe work environment that is free of harassment and intimidation. The Board prohibits sexual harassment against district employees and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.

~~Sexual harassment includes, but is not limited to, harassment that is based on the gender, gender identity, gender expression, or sexual orientation of the victim.~~

~~This policy shall apply to all district employees and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and job applicants.~~

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 4030 - Nondiscrimination in Employment)*

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

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.

~~(cf. 4117.7/4317.7 – Employment Status Reports)~~  
~~(cf. 4118 – Dismissal/Suspension/Disciplinary Action)~~  
~~(cf. 4218 – Dismissal/Suspension/Disciplinary Action)~~

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
2. Publicizing and disseminating the district's sexual harassment policy to employees and others to whom the policy may apply

~~(cf. 4112.9/4212.9/4312.9 – Employee Notifications)~~

3. Ensuring prompt, thorough, fair, and fair equitable investigation of complaints
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

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.

## Sexual Harassment Reports and Complaints

~~Any district employee~~District employees who ~~feels~~feel that ~~he/she has~~they have been sexually harassed in the performance of ~~his/her~~their district responsibilities or who ~~has~~have knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to ~~his/her~~their direct supervisor, ~~another supervisor,~~a district administrator, or the district's ~~coordinator for nondiscrimination, the Superintendent, or, if available,~~Title IX Coordinator. Employees may bypass their supervisor in filing a complaint ~~hotline or an ombudsman.~~if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the ~~coordinator~~Title IX Coordinator.

~~Complaints of sexual harassment shall be filed and investigated in accordance with~~Once notified, the Title IX Coordinator shall ensure the complaint ~~procedure specified in~~is addressed through either AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures for complaints meeting the Title IX definition of sexual harassment or AR 4030 - Nondiscrimination in Employment.~~An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of~~ for complaints meeting the ~~complaint.~~

~~All complaints and allegations of sexual harassment state definition, as applicable, and shall be kept confidential offer supportive measures to the extent necessary to carry out the investigation or to take other subsequent necessary actions. (2 CCR 11023)complainant.~~

*(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)*

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.

*(cf. 4117.7/4317.7 - Employment Status Reports)*

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*Legal Reference:*

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950 Sexual harassment; distribution of information

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11009 Employment discrimination

11021 Retaliation

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

11034 Terms, conditions, and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs ~~receiving state financial assistance~~

UNITED STATES CODE, TITLE 20

1681-1688 Title IX ~~prohibition against discrimination~~ of the Education Amendments of 1972

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.9 Nondiscrimination on the basis of sex in education programs or activities

106.51-106.6182 Nondiscrimination on the basis of sex in employment in education ~~program~~ programs or activities

COURT DECISIONS

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

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

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

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

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

*Management Resources:*

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Promising Practices for Preventing Harassment, November 2017

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr/index.html>

Policy

adopted: October 19, 2005

revised: May 16, 2018

**revisions: Pending Board Adoption**

PERRIS UNION HIGH SCHOOL DISTRICT

Perris, California