

HARASSMENT

This regulation has been established to implement BP 5145.7 and to ensure all students are provided with an educational environment free from all forms of discrimination, including sexual harassment. Sexual harassment is unlawful under federal law and is specifically prohibited by the Monterey County Office of Education (MCOE).

Definition and Examples of Student Sexual Harassment

Student sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting such that the behavior;

- Unreasonably interferes with a student's educational performance or creates an intimidating, hostile, or offensive educational environment;
- Is implicitly or explicitly made a term or condition of a student's educational development, status, or progress;
- Is used as a basis for educational decisions affecting that student, including any decisions regarding benefits, services, honors, programs, or any other activities available at or through the school.

Examples of prohibited conduct for which a student may file a complaint under this regulation include, but are not limited to:

- Offensive or unwelcome verbal or physical advances, flirtations, or propositions;
- Any unwelcome intentional touching of intimate body areas;
- Employees or other adults in the school setting asking students for dates and/or dating students;
- Verbal abuse of a sexual nature, including but not limited to slurs, leering, epithets, threats, or derogatory comments;
- Graphic or degrading verbal comments about a student or his/her physical attributes, or overly personal conversation;
- The display of sexually suggestive objects, pictures, card, letters, or other materials;
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- Lewd or suggestive comments, stories, drawings, pictures, or gestures, off-color language or jokes of a sexual nature;
- Spreading of sexual rumors;
- Teasing or sexual remarks about students enrolled in a predominantly single-sex class;
- Purposefully cornering or blocking normal student movements;
- Limiting a student's access to educational tools.
- Included in the notifications sent to parents/guardians at the beginning of each school year [Education Code (E.C. 48980(g))];
- Displayed in a prominent location at each MCOE school site;
- Placed in any MCOE publication that sets forth the MCOE comprehensive rules, regulations, procedures, and standards of conduct;
- Provided to employees and employee organizations

Notifications

A copy of the MCOE sexual harassment policy and administrative regulations shall be:

- Included in the notifications sent to parents/guardians at the beginning of each school year [E.C. 48980(g)];
- Displayed in a prominent location at each MCOE school site;
- Placed in any MCOE publication that sets forth the MCOE comprehensive rules, regulations, procedures, and standards of conduct;
- Provided to employees and employee organizations.

Filing a Complaint

Any student who believes that he/she has been subjected to sexual harassment by any MCOE employee, non-employee on MCOE property, or other student should immediately notify the MCOE site administrator of the incident. The complaining party

does not have to be the person harassed but can be directly affected by the offensive conduct. If the alleged harasser is the MCOE site administrator, the student should notify the MCOE Human Resources Department of the incident giving rise to such harassment.

In situations where a student reports sexual harassment directly to an MCOE teacher or in cases where the teacher witnesses sexual harassment of a student, the teacher should immediately notify the MCOE administrator of the incident giving rise to such harassment.

The MCOE administrator shall interview the complaining party at the earliest practical time in order to secure the details and circumstances giving rise to the complaint. The complaining party shall also complete and sign a Sexual Harassment Complaint Form (Figure AR 5149-A) detailing the basis for the complaint.

The MCOE administrator must put the results of his/her interview into writing at the earliest opportunity. The MCOE administrator must also contact the supervising assistant Superintendent. If the allegation concerns harassment by another MCOE employee, the MCOE site administrator must also contact the MCOE Human Resources Department.

Investigation

The MCOE site administrator or a designee named by the Human Resources Department shall conduct an investigation to determine whether the charge or complaint has a basis in fact.

The investigation shall be conducted in cooperation with Human Resources if the alleged harasser is an MCOE employee.

Such an investigation shall include, but is not limited to, an interview with the charged party or parties, interviews with witnesses, if any, and an examination of any relevant documents or materials. The investigator shall talk individually with:

- The party charged with harassment
- Anyone who saw the alleged incident(s) occur
- Anyone mentioned by either party as having related information

The investigator shall discuss the complaint only with the individuals mentioned above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the investigator may also discuss the complaint with the following persons:

- The Monterey County Superintendent of Schools or designee
- The parent/guardian of the student who complained
- The parent/guardian of a student accused of harassing someone
- A teacher or staff member whose knowledge of the students involved may assist in determining who is telling the truth
- Child protective agencies responsible for investigating child abuse reports
- MCOE legal counsel

At the conclusion of the investigation, the MCOE site administrator or designee shall prepare a written report that sets forth the findings of the investigation and the evidence in support of the findings.

Resolution of the Complaint

In the event that it is determined that the complaining party has been a victim of sexual harassment, the MCOE site administrator, in conjunction with the Monterey County Superintendent of Schools (and MCOE Human Resources Department if the harasser is an MCOE employee), shall recommend appropriate disciplinary action so as to ensure that the harasser does not repeat or continue to engage in such acts of sexual harassment.

Such disciplinary action may include, but not be limited to, suspension and/or expulsion for student harassers, and non-renewal or termination for MCOE employees.

As appropriate, resolution may also include notification to Monterey County Child Protective Services.

Confidentiality of Investigation

The filing of a charge or complaint; investigation of the charge or complaint; identity of the charging party; charged party; and any witnesses to the incident shall be maintained in confidence.

Only those persons who have a need to know for purposes of the investigation or resolution of the charge or complaint as discussed in Section 5.0 shall be informed of the fact that a charge has been filed and/or the names or identities of the persons involved.

Any employee who releases information concerning the charge or identify of any persons involved shall be subject to disciplinary action.

Retaliation

Threats, reprisals, or retaliations against any individuals filing a sexual harassment complaint or participating in the investigation or resolution of the complaint are prohibited.

Any employee who threatens or retaliates against any such persons as a result of their participation in the investigation process shall be subject to disciplinary action.

Law Enforcement Involvement

Any acts of physical sexual harassment or molestation will be reported to the Salinas County Sheriff's Department and the district attorney's office as required by state law.

False Complaints

Students or employees who knowingly make false charges of sexual harassment may be subject to disciplinary action as well as any relevant civil or criminal legal proceedings.