

SEXUAL HARASSMENT - EMPLOYEES

REGULATION:

Introduction:

Any employee who believes he or she is being sexually harassed shall immediately file a complaint on the district provided complaint form. Submission of good faith complaints will not affect an employee's future employment or work assignments, and any form of retaliation or reprisal against the employee is strictly prohibited. Personnel involved in the resolution of the complaint shall not suffer any retaliation or reprisal as a result of participating in the investigation. During the investigation of the alleged sexual harassment, the district will protect the confidentiality of all parties insofar as possible.

A. Filing the complaint

Employees are encouraged to keep accurate documentation of any unwelcome conduct of a sexual nature, and report as soon as possible to his or her supervisor. If the supervisor is the alleged harasser or the employee does not feel comfortable discussing the situation with the supervisor, the employee should contact either the building administrator or the Title IX Coordinator.

The employee should complete the district's sexual harassment complaint form, with sufficient specificity to identify the alleged harasser and the specific behavior(s) that is the basis of the complaint. All possible witnesses should be identified, and the remedy desired.

B. Investigating the complaint

The Director of Human Resources will oversee all investigations of employee sexual harassment, whether the employee is the complainant or the alleged harasser. The investigation may be conducted by a district administrator, an outside investigator or the Director. Once the district has knowledge of the filing of a sexual harassment complaint, a prompt, thorough and objective investigation must begin. The complainant and alleged harasser shall not be directed to resolve the matter themselves. Based on the circumstances, the district may consider placing the alleged harasser on administrative leave pending the completion of the investigation.

An investigation should include interviews with the complainant, witnesses, and the alleged harasser. Interviews should be documented, including statements by the complainant and witnesses describing each action which may constitute sexual harassment, and other information which will help determine the validity of the complaint.

1. The investigator should maintain a compassionate, non-judgmental demeanor and ask open-ended questions to obtain as full and fair record of the alleged misconduct as possible.
2. The investigation should begin with an interview of the complainant. In conducting the interview, the investigator should objectively ask about all instances of sexual harassment, if there are other individuals who may have complaints, and if there were any witnesses to any of the conduct. The investigator should not pre-judge either side, should not give the appearance of pre-judging, and should use whatever techniques

are necessary to help the complainant tell the story. In no event shall the complainant and alleged harasser be interviewed together. The investigator should remind the complainant that the district's policy prohibits ongoing sexual harassment and retaliation and encourage him/her to come forward if there is further sexual harassment or retaliatory conduct.

3. In most cases, the second step of the investigation should be interviewing witnesses and gathering information to interview the alleged harasser. Witnesses may have seen the events and may be able to describe the conduct as well as the complainant's reaction or response. They may also have witnessed other events or incidents corroborating or disproving the statements of the complainant or the alleged harasser. Witnesses should be advised that the conduct under investigation is sensitive and confidential (except to the extent the witness may be called to testify if the matter goes to hearing or trial), and should not be discussed outside of the investigation.
4. If there is a possibility of disciplinary action, the alleged harasser should be given the opportunity to have union representation present when he or she is interviewed. The investigator should review the complainant's allegations and give the alleged harasser an opportunity to admit, deny, or explain the circumstances. The investigator should also ask the alleged harasser for names of witnesses who may substantiate his/her position. The alleged harasser should be reminded of the district's policy against sexual harassment and that retaliatory conduct is prohibited. The alleged harasser should also be told he or she is not to make any contact with the complainant pending the conclusion of the investigation.
5. A complainant may withdraw his or her complaint at any time. The Director will then determine if the investigation should be pursued or other action taken.

C. The Determination

1. The decision-making process, which factors were considered, and what significance they had in the determination should be documented. Factors which may be considered include but are not limited to:
 - ◆ The nature of the conduct
 - ◆ How often the conduct occurred
 - ◆ How long the conduct continued
 - ◆ Whether the complainant found the conduct unwelcome
 - ◆ Impact of the conduct on the employee's work performance
 - ◆ Whether the behavior would have been different to someone of the opposite sex
 - ◆ Whether the alleged harasser was a supervisor of the complainant employee
 - ◆ Number of alleged harassers
 - ◆ Where the harassment occurred
 - ◆ Prior incidents of sexual harassment by the alleged harasser
2. After reviewing all the information gathered during the course of the investigation, the investigator shall respond to the complainant and the alleged harasser with one of the three statements within fourteen (14) days of receiving the complaint:
 - a. that the district does not have adequate evidence to conclude that harassment occurred;

Even if the investigator decides the alleged sexual harassment cannot be corroborated, action should be taken to avoid a subsequent similar behavior. The investigator should advise the complainant and the alleged harasser (separately) of the outcome of the investigation and how the conclusion was reached. Any meetings or discussion should be documented. If the complainant and alleged harasser must continue to interact, the situation should be monitored to minimize the potential for a retaliation claim and to avoid any adverse impact on the complainant.

- b. that sexual harassment occurred, and delineating the corrective actions the district intends to take; or

If a determination is made that sexual harassment occurred, the school must take appropriate action to make the harassment stop. The severity of the conduct will be assessed, and the appropriate disciplinary action for the harasser will be determined. As a general rule, physical conduct merits stronger penalties than verbal conduct. The discipline should be documented, including the considerations which lead to the selection of the level of discipline. Any employee who is subjected to discipline as a result of the sexual harassment investigation is entitled to the due process and other rights outlined in the applicable law and collective bargaining agreement.

- c. that the investigation is incomplete to date and will be continuing.

If more information must be gathered, and the investigation is continuing, this should be explained (separately) to the complainant and the alleged harasser. The complainant and the alleged harasser should also be reminded of the district's commitment to enforcing the sexual harassment policy and the complainant encouraged to come forward with any new or continuing concerns of sexual harassment. The investigator should periodically check with the complainant as the investigation continues to see if other concerns have arisen. Any meeting or discussion should be documented.

D. The Sanctions

The district's actions must be calculated to make the harassment stop and prevent further recurrences. Sanctions may range from education and counseling to discharge, based on the behavior.

Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to TSPC.

Additionally, if the behavior constituting sexual harassment may also constitute criminal activity, the superintendent or designee may contact local law enforcement officials.