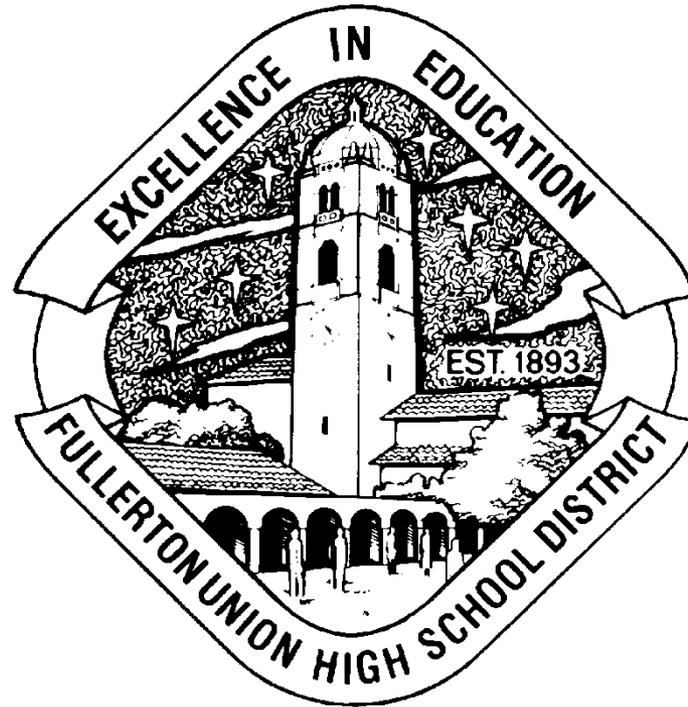


AB 1432 – California Educator Mandated Reporter Training



AB 1432 – California Educator Mandated Reporter Training

Background:

Effective January 1, 2015, all California school districts and school sites are required to annually train **all** mandated reporters on their child abuse reporting obligations.

Purpose of the Training:

To address the specific issues and concerns of educators and school staff members with regard to mandated child abuse reporting requirements.

Desired Learning Outcomes:

- Understand how the law defines various types of child abuse and neglect
- Articulate what the law requires of all mandated reporters
- Explain the indicators of possible child abuse or neglect
- Understand how to talk to minors about suspected abuse and/or neglect
- Understand how to make a child abuse report
- Explain what happens after a child abuse report is filed
- Present special issues related to child abuse reporting in the school environment

AB 1432 requires districts to provide comprehensive training that instructs school personnel in both the detection and reporting of suspected child abuse and neglect.

Training must cover:

- * The different types of child abuse/maltreatment
- * The differences between physical, sexual, and emotional abuse and neglect
- * The indicators used to identify abuse and neglect
- * The laws requiring reporting
- * The identification of those who are defined as mandated reporters
- * The process used to report abuse and neglect
- * The penalties for failing to report abuse and neglect

Failure to report known or reasonably suspected child abuse or neglect, as required by Section 11166 of the California Penal Code, **is a misdemeanor punishable by up to six (6) months confinement in a county jail, a fine of \$1,000, or both.**

Who Must Report?

The California Child Abuse Reporting Law defines a “Mandated Reporter” as:

- * Teacher
- * All Classified Employees
- * Counselor
- * Instructional Aide
- * Nurse, Psychologist, SLP
- * Teacher’s Assistant
- * Administrator
- * Data/Computer Tech
- * Coach/Athletic Director
- * CA Penal Code 11165.7

California Penal Code Section 11165.7

- * Certificated Teacher
- * Certificated Staff Members
- * Coach, Athletic Director
- * Instructional Aide
- * Teacher's Assistant
- * Classified Employee
- * Computer/Data Technician
- * School LVN/Nurse
- * Administrator
- * SRO
- * Police Officer
- * Probation/Parole Officer
- * Social Worker
- * District Attorney
- * District Investigator/Inspector
- * Caseworker
- * Firefighter
- * EMT/Paramedic
- * Child Abuse Prevention Staff
- * Child Welfare Officer/Staff
- * Head Start Program Staff
- * County/State Dept. Ed. Staff
- * Marriage and Family Therapist
- * Co./State Public Health Staff

California Penal Code Section 1165.7

- * Psychologist, Psychiatrist
- * Physician, Dentist, Chiropractor
- * Non-School LVN, Nurse
- * Coroner
- * Medical Examiner
- * Photo Image Processor
- * Commercial Computer Tech
- * Child Visitation Monitor
- * Clergy Member
- * Animal Control Officer
- * Any Employee of Any Law Enforcement Agency
- * Alcohol/Drug Counselor
- * Clinical Counselor/Trainee
- * Clinical Counselor Intern
- * Day Camp Administrator
- * Youth Center Administrator
- * Child Care Staff
- * Public Assistance Worker
- * College/University Advisor
- * Custodial Officer
- * Court Appointed Special Advocate Staff/Volunteer

WHAT IS SUSPECTED ABUSE OR NEGLECT?

The **Child Abuse and Neglect Reporting Act (CANRA)** requires a mandated reporter to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or has observed a child whom he or she knows or reasonably suspects has been the victim of child abuse or neglect. Child abuse includes physical, emotional, and sexual abuse as well as the neglect of minors.

Child abuse is defined as:

- A physical injury inflicted by other than accidental means on a child by a person.
- Sexual abuse of a child, including both sexual assault and sexual exploitation.
- Willful physical or mental cruelty or unjustifiable punishment of a child.
- Unlawful corporal punishment or injury of a child.
- Negligent failure by a parent or custodian to provide adequate food, clothing, shelter, or supervision where no physical injury to the child occurred.

Physical Abuse

Physical abuse is characterized by physical injury (for example, **bruises, burns or broken bones**) resulting from hitting, beating, kicking, biting, burning, or otherwise harming a child.

Though not an accident, the parent or caretaker may not have intended to injure the child, as with **over-discipline** or **inappropriate physical punishment**.

The injury may occur from a **single episode** or **repeated episodes** and can range in severity from minor bruising to serious injury. Any injury resulting from physical punishment that requires medical treatment is considered outside the realm of normal disciplinary measures.

Additionally, abusive bruises and burns may be **patterned** or have a **distinct outline**, while accidental bruises typically do not leave a clear pattern or outline. Broken bones, lacerations, burns (cigarette, scalding water, iron) are also injuries that may be concerning for possible physical abuse.

Potential Signals of Child Abuse

- * Poor nourishment or inadequate clothing
- * Consistent tiredness/sleepiness the child is reluctant to explain
- * Unexplained changes in personal hygiene/appearance
- * Sudden negative changes in academic performance and attendance
- * Sudden, unexplained behavior changes—withdrawal, clinginess, swings in eating behavior
- * graphic and detailed nightmares in which the child is victimized
- * Unexplained extreme fears of people or places
- * Repeated injuries such as bruises, welts, or burns, especially when in the shape of an object
- * Unexplained fractures

Potential Signals of Child Abuse (Continued)

- * Age-inappropriate behavior—sucking thumb/bed wetting
- * Fear of a specific person or of going home
- * Resistance to routines such as undressing, showering, toilet use
- * Playing, drawing, writing, or acting out sexual or frightening imagery
- * Refusal to discuss a secret kept with an adult or older child
- * Unexplained, nonspecific ailments—frequent stomach aches
- * Discussion of an explicit sexual nature
- * Acting out sexual activities
- * Special relationships with adults that include secrets and gifts
- * Self-harmful activities—cutting, burning, drugs, alcohol, sexual promiscuity, and running away
- * Pregnancy, STDs, bruising of the genital or oral areas

Child Abuse Does Not Include:

- * A “mutual affray between minors” (P.C. 11165.6)
- * The use of “reasonable and necessary force” by a peace officer acting in the course and scope of his or her duties (P.C. 11165.4)
- * The use of “reasonable and necessary force” by a school employee in order to prevent physical threat/injury to a person or property, for the purpose of self-defense, or to obtain possession of a weapon or dangerous object (P.C. 11165.4, E.C. 44807, & E.C. 49001)
- * Treatment received by spiritual means or not receiving medical treatment for religious reasons (P.C. 11165.2(b))

Sexual Abuse

Per **CANRA**, Sexual abuse refers to **sexual assault** or **sexual exploitation** as defined by various sections of the California Penal Code as well as other specific acts listed in the law.

However, understanding under what circumstances a report needs to be made can sometimes be confusing. Unlike other forms of abuse, **age differences can be important when assessing sexual activity related abuse.**

It is important to remember that any sexual act that is **coerced, forced,** or accomplished **without the consent** of the partner is considered abuse and must be reported. As with all forms of abuse, if you are unsure whether what you have seen or heard is abuse, call a child protective agency for advice.

If in doubt, report!

Sexual Abuse Includes:

- * Unwanted and unnecessary touching or fondling of the intimate or genital areas of a minor
- * Voyeurism
- * Lewdness or exposing private body parts to a minor
- * Exposing minors to sexual acts or pornography
- * Requests/offers of sex or sexual acts to/from a minor
- * Taking nude photographs of a minor
- * On-line or electronic enticement of minors
- * Sexual acts such as intercourse, penetration, rape, incest, and sodomy with a minor
- * Sexual exploitation of a minor

Sexual Assault

Sexual assault includes rape, statutory rape, incest, sodomy, lewd or lascivious acts upon a child, oral sex, sexual penetration, or child molestation. Examples include:

- * Penetration, however slight, of the vagina or anal opening by the penis of another
- * Sexual contact of the genitals or anal opening by the mouth or tongue of another
- * Intrusion of the genitals or anal opening by another, including the use of an object
- * Intentional touching or fondling of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, for the purpose of sexual arousal or gratification
- * Masturbating in the presence of a minor

Sexual Abuse/Assault Disclosure

Although some children disclose right away, the nature of sexual abuse, the **guilt** and **shame** of the minor victim, and the possible **involvement of parents**, stepparents, friends, or others in trusted positions often make it extremely difficult for minors to report sexual abuse or assault. Most victims of sexual abuse report the crime(s) months or even years after it has occurred, and many victims never report at all.

Additionally, **it is very common for children to recant** a disclosure of sexual abuse or assault, meaning they disclose the abuse and then change their story, **denying that it ever occurred**.

This happens for a variety of reasons, including **fear, guilt, shame, embarrassment, or pressure from others to deny** that sexual abuse has occurred. Many **people may not believe the victim** because the abuser is well-liked and others cannot believe he or she could be capable of sexual abuse. The minor may feel guilty about "turning in" the abuser or breaking up the family, and recant or change his or her story.

Sexual Abuse/Assault Disclosure (Continued)

Although delayed disclosure and subsequent recantation are typical, they may result in **skepticism** when a child discloses sexual abuse or assault. The sad reality of sexual abuse and assault is that **without third-party reporting, the minor often remains trapped in secrecy by fear, shame, and threats by the abuser**. It is therefore important to recognize that **children rarely fabricate** these accounts; they should be taken seriously.

**If you reasonably suspect abuse or assault,
report!**

Common Factors of Perpetrators

Several common factors contribute to sexual abuse/assault, even when the perpetrator is another child:

PASS (Power, Ability, Size, Status)

POWER: The suspected perpetrator uses tricks, bribes, threats, or physical force against the victim.

ABILITY: The suspected perpetrator has greater mental, emotional, or physical ability than the victim (for example, disabled or developmentally delayed victims and typical adult/child dynamic).

SIZE: The suspected perpetrator is much older or larger than the abused child.

STATUS: The suspected perpetrator has more perceived or actual power than the abused child, whether an adult or minor (examples include an adult, minor or adult babysitter, minor or adult club leader, team captain, or bully).

Neglect

Neglect refers to the negligent treatment or the maltreatment of a child by his/her caregiver that results in harm or could be harmful. The term includes both acts (e.g., locking a toddler in a hot car) and omissions (e.g., not providing food) on the part of the responsible person (P.C. 11165.2).

General neglect means the failure of a caregiver of a child to provide adequate food, clothing, shelter, medical care, or supervision, where no physical injury to the child has occurred (P.C. 11165.2).

Severe neglect means the intentional failure of a caregiver to provide adequate food, clothing, shelter, or medical care. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered (P.C. 11165.2).

Red Flags of Potential Neglect of a Minor

- * Dirty, tattered, or ill-fitted clothing
- * Poor hygiene
- * Lack of dental care, severe cavities
- * Chronic lice
- * Malnourishment
- * Failure to thrive
- * Developmental delay

Red Flags of Possible Neglect in the Home

- * Toxins, cleaners & medications within reach of a child
- * Guns or weapons that are not properly stored
- * Presence of trash, rotted food, insects, rodents, and/or animal droppings
- * Inappropriate or insufficient shelter
- * Choking hazards within reach of an infant/children
- * Lack of supervision

Emotional Abuse

Although emotional abuse is not as clearly defined in the law as other forms of maltreatment, it is generally recognized as **a pattern of behavior by a caretaker that impairs a child's emotional and/or psychological development.**

This may include **constant criticism, threats, rejection, intimidation, humiliation, acts intended to produce fear or guilt, withholding of love and support, and isolation.**

Witnessing of **domestic violence** also falls within the scope of emotional abuse. In some situations, such as **habitual scapegoating, belittling, or using cruel words**, it may be difficult to determine what constitutes emotional abuse. **Emotional abuse is the most difficult form of child maltreatment to identify; however, for the mandated reporter, reporting the concern is the only requirement.** It is up to the child protective agency to decide if the act(s) in question are emotional abuse.

If you reasonably suspect emotional abuse, report!

What is the Legal threshold for reporting?

Unsubstantiated rumors of sexual misconduct might curtail or destroy the careers of innocent teachers, school employees, care providers, or parents. Nevertheless, it is imperative to know (Penal Code § 11166(a)):

A mandated reporter should reasonably suspect child abuse or neglect whenever, **“it is objectively reasonable ... to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing upon his or her training and experience, to suspect child abuse or neglect.”**

Facts upon which reasonable suspicion may arise do not have to have been witnessed by the employee, but rather can be learned from other sources.

The obligation is not to investigate but to objectively report the facts learned or observed.

If in doubt, report!

Victim Interviews

Occasionally, a mandated reporter may be asked to be present voluntarily during an interview with a victim upon the victim's request.

Upon request, a representative of an agency investigating suspected child abuse or neglect may interview a suspected victim during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility.

The child shall be given the choice of being interviewed in private or in the presence of any adult school employee (referred to as a volunteer aide) selected by the child. (Penal Code 11174.3)

The mandated reporter or a volunteer aide selected by the child may decline to be present at the interview.

Victim Interviews (Continued)

In the event the selected person accepts, the investigating agency, Principal, or designee shall inform the selected person, before the interview takes place, of the following requirements (Penal Code 11174.3):

1. The purpose of the selected person's presence at the interview is to lend support to the minor and enable him or her to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the minor.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 1167.5. If the staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school (Penal Code 11174.3).

Release of Child/Minor to Peace Officer

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or Principal **SHALL NOT** notify the parent/guardian as required in other instances of the removal of a child from school, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. **It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation** (*Education Code 48906*).

TO REVIEW:

Do not contact the parent/guardian of a child released to a peace officer.

Do provide the peace officer with the address and telephone number of the child's parents/guardians.

Protections for Mandated Reporters

To protect mandated reporters from repercussions for obeying the law and protecting children, there are laws that punish anyone who interferes with a mandated reporter making a report. Other laws provide for confidentiality and immunity from prosecution for making a report.

Mandated reporters have **absolute immunity** from state criminal or civil liability for reporting as required, even if the mandated reporter acquired the knowledge/reasonable suspicion of the abuse or neglect outside of his or her professional capacity or scope of employment. Mandated reporters and others acting at their direction are not liable civilly or criminally for photographing the victim and disseminating the photograph with the report (P.C. 11172 (a)).

Mandated reporters have immunity from State and federal claims only if the report was made in **good faith**. Again, the obligation is not to investigate but to objectively report the facts learned or observed.

Always report reasonable suspicions of child abuse!

Reports of Abuse Are Confidential

When a mandated reporter suspects abuse, neglect, or exploitation, he or she must give his or her name when reporting. The reporter's identity must remain confidential, however, and authorities cannot reveal him or her as the source of the report.

The identity of a person who reports known or suspected child abuse is confidential and may only be disclosed as follows:

- * Between agencies receiving or investigating the report
- * To the District Attorney in a criminal prosecution
- * To the District Attorney in an action initiated under Welfare and Institutions Code Section 602 arising from alleged child abuse
- * To the child's appointed counsel pursuant to Welfare and institutions Code Section 371 (c)
- * To the County Counsel or District Attorney in a proceeding under Family Code Section 7800 (termination of parental rights) or Welfare and Institutions Code Section 300 (dependent Children)
- * To a licensing agency when abuse in out-of-home care is reasonably suspected
- * By court order

Mandated Reporters Are Protected

Obstacles to Reporting

One of the biggest obstacles to reporting may be the feelings of the potential reporter. **It is important to remember that the intention of a child abuse report is to make child protective agencies or law enforcement aware of possible abuse in order to protect a child.**

Reports are investigated by the County Child Welfare Agency (Child Protective Services) and/or the appropriate law enforcement agency.

Those required to report should be aware that reporting does not always mean that a civil or criminal proceeding will be initiated against the suspected abuser. If an investigation does not reveal evidence of child abuse the case may be closed and no further action taken.

In cases of intrafamilial abuse, child protective agency workers can assess a family's needs and provide appropriate services, referrals, and education.

You are only required to report suspected abuse, law enforcement will investigate.

A Reminder of Your Obligation as a Mandated Reporter

The responsibility for reporting rests solely with the mandated reporter.

Reporting suspected abuse to an employer, supervisor, school administrator, school counselor, coworker, or other lay person is not a substitute for reporting to a child protective agency or law enforcement (P.C. 11166 (i)(3)) and does not fulfill the mandated reporter's legal obligation of reporting the suspected abuse.

What if more than one staff members suspects abuse?

When two or more mandated reporters jointly have knowledge of suspected child abuse or neglect, **a single report may be made by a designated member of the reporting team.** Any member of the reporting team who has knowledge that the designated person has failed to report must do so him or herself.

After the Report Is Made

What the response will be and how quickly it will be made depends on the seriousness of the events reported and the situation the child faces.

Where it appears that the child is in danger, the response will be **immediate** and may include both law enforcement and child welfare services.

Where there is less risk involved it may be **three to ten days** before action is taken. Not all reports are assigned for investigation. Cases are usually investigated by Child Welfare Services when allegations involve intrafamilial abuse or neglect.

If the alleged perpetrator is someone outside the family, Child Welfare Services only becomes involved when there is concern that a caretaker is unable or unwilling to protect the child.

The Child Welfare Services social worker interviews the child and involved parties to evaluate the situation. The worker's primary focus is the protection of the child.

Child Abuse Central Index

When you report abuse you create a "paper trail" that makes it easier to stop a repeat offender or to build a solid case against an offender.

The California Department of Justice maintains a central repository of information about reported child abuse, called the Child Abuse Central Index, or CACI.

CACI contains summary information from investigation reports submitted by law enforcement and child welfare departments on child abuse victims and suspected abusers.

This information includes the suspect's and victim's names and personal characteristics, reporting agency, type of abuse, local agency file number, and date of report.

Your report is required by law, but it also guarantees the immediate safety of a child and provides information to law enforcement that may be helpful in future investigations!

A Reminder: Failure to Report

A person who is legally mandated to report suspected child abuse and who fails to make a required report within 36 hours is **guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine** (P.C. 11166[c]).

He or she may also be subject to a civil lawsuit, especially if the child-victim or another child is further victimized because of the failure to report (Landeros vs. Flood [1976] 17C.3d 399).

Failure to report may result in disciplinary action and/or loss of license or credential (E.C. 44421).

REMEMBER:

When in doubt, report!

Scenario

A student suddenly begins to lose weight, frequently misses class, and when he does attend class, appears tired. Also, he has become increasingly detached from his teacher and classmates. Inquiries by the teacher are met with silence. Additionally, a classmate has observed this student drawing sexually explicit and sexually violent pictures in his notebook.

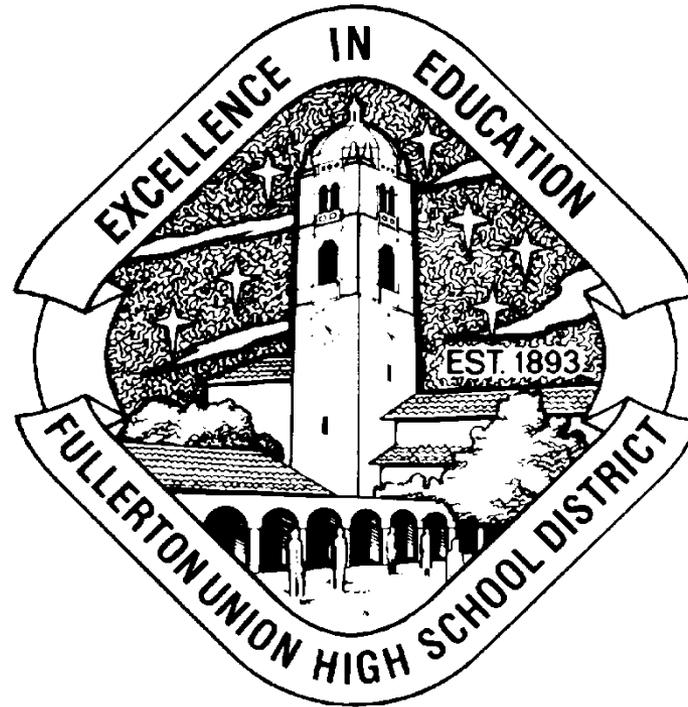
Does this constitute suspected child abuse?

What do you do?

Employee Guidelines for Proper Interactions with Minors

- * Never be alone with a student
- * Always remain in the sight of others
- * Avoid use of student restrooms
- * Avoid locker room presence (unless directly supervising)
- * Physical contact is unambiguous
- * Do not touch/grab to get attention
- * Do not touch to discipline
- * Never host or attend activities outside of school without parent/guardian/adult presence
- * Never invite minors to your home without parents/guardians present
- * Never enter a home without parents/guardians present
- * No gifts over \$10 w/o approval
- * Never provide alcohol, drugs, cigarettes to a minor
- * Always report alcohol/drug use
- * Never attend off-site events with a minor
- * Never photograph/video students without approval
- * Never communicate with minors on matters unrelated to school
- * Avoid social media sites
- * Always remain a professional

Sexual Harassment



A Definition of Sexual Harassment

Since January 1, 2014, California law states that sexual desire need not exist in a claim of sexual harassment.

Definition: (Government Code § 12940(j)(4)(C))

“For purposes of this section, “harassment” because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.”

What does this mean?

This legal definition expands the scope of sexual harassment and the type of behavior that will subject employees to potential liability, discipline, and legal action.

Sexual harassment is not limited to cases involving evidence of desire to engage in sexual conduct with another. Rather, employees are at risk of liability when their conduct is simply sexual in nature.

Joking with or taunting someone in a way that is related to gender or sexual acts is now even more dangerous territory. Sexual harassment is determined strictly by what is said and done, regardless of intent.

It may not be your intent, but your actions may be harassment!

Sexual Harassment

FJUHSD AR 4122.1 (a)

Purpose:

- * Establish procedures to prohibit the sexual harassment of any student or employee
- * To define sexual harassment (Section III)
- * To investigate in a confidential manner without fear of retaliation

Responsibility:

- * Policy applies to all District students and staff members
- * Sexual harassment shall be reported to an administrator/supervisor
- * Any employee having knowledge of conduct that may constitute sexual harassment of a student shall immediately report to a site administrator
- * An employee may be held personally liable for conduct deemed outside the scope of his or her employment

Sexual Harassment (Continued)

FJUHSD AR 4122.1(a)

Definition: Unwelcome sexual advancements, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when:

- * Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment or advancement
- * Submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual subject to the conduct
- * Such conduct has the purpose or effect of unreasonable interference with an individual's work performance or the creation of an intimidating, hostile, or offensive environment

Examples of Sexual Harassment

- * Comments repeatedly referring to or emphasizing the sexuality or sexual identity of an individual
- * Persistent requests for social/sexual encounters
- * Offensive physical conduct or lewd acts
- * Sexual crimes
- * Threats or punishment for refusing sexual conduct/contact
- * Offensive or sexually suggestive comments, jokes, photographs, or other written or electronic materials posted or spoken about within or outside the work site

Key Elements & Types of Sexual Harassment

Key Elements: Unwelcome comments or actions relating to:

- * Sexual conduct or contact
- * Sexual identity or orientation
- * Physical attributes
- * Medical conditions

Types of sexual harassment:

- * Quid Pro Quo or “this for that” propositions
- * Hostile Environment
 1. Pervasive (on-going in nature, not limited to a single incident)
 2. Interferes with an individuals performance
 3. Made by one person directly to another or indirectly by a third party

Factors Determining Sexual Harassment

- * Focus is not on the intent of the individual accused of harassment but the **IMPACT** on the victim
- * Is the conduct (actions, words, or behavior) of the individual accused of harassment considered harassment by a “reasonable person”

Sexual Harassment: Resolution Process

FJUHSD AR 4122.1(a)

General Information:

- * No retaliation of any kind will occur against a staff member, student, parent, or community member for filing a complaint
- * Every effort will be made to protect the privacy of all parties involved in a complaint
- * Suspected sexual relationship between a staff member and a student will be subject to criminal sanctions and shall be reported as child abuse

Sexual Harassment: Resolution Process (Continued)

FJUSHD AR 4122.1(a)

Process for Complaints of Sexual Harassment by a Student:

- * The Principal/Assistant Principals shall be available to receive complaints of sexual harassment (though staff members sometimes initially report)
- * The student shall receive counseling and information outlining options
- * A factual written statement of the complaint shall be obtained, including specific who, what, where, when, and how information
- * District administration shall be contacted to explain the specifics of the complaint
- * Site administration and the student shall assist in the follow up investigation

Sexual Harassment: Resolution Process (Continued)

FJUHSD AR 4122.1(a)

Process for Complaints of Sexual Harassment by a Staff Member:

- * The site Principal, Assistant Principals, or site Director will be available to receive complaints of sexual harassment
- * The staff member shall receive counseling and information detailing available options
- * A factual written statement of the complaint shall be obtained, including specific who, what, where, when, and how information
- * District administration shall be contacted to explain the specifics of the complaint
- * The staff member shall assist in the follow up investigation
- * Human Resources will review the complaint to determine whether the act violates policy and if disciplinary action is appropriate

Sexual Harassment: Resolution Process (Continued)

FJUHSD AR 4122.1(a)

The Investigation Process for Complaints by a Student:

- * The complaint shall be reviewed and sent to the Human Resources within 10 days of the initial complaint
- * The Superintendent or Designee shall review the complaint and respond within 10 working days of the receipt of the complaint
- * If the complaint is substantiated, based on the degree of severity of a proven incident, appropriate disciplinary action shall be taken
- * If the complaint is not substantiated, the person who filed the complaint shall be counseled on the potential impact of false accusation
- * The accused person shall be notified that the complaint was deemed to be unsubstantiated, and both parties will be cautioned on the sensitivity of the situation

Sexual Harassment: Resolution Process (Continued)

FJUHSD AR 4122.1(a)

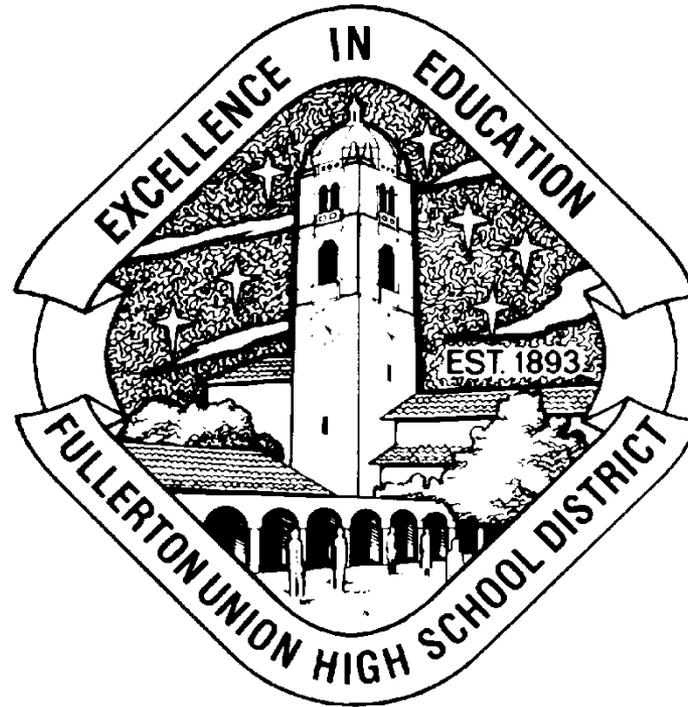
The Investigation Process for Complaints by a Staff Member:

- * The complaint shall be reviewed and sent to Human Resources within 10 days of the initial complaint
- * The Superintendent or Designee shall review the complaint and respond within 10 working days of receipt of the complaint
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- * If the complaint is not substantiated, the person who filed the complaint shall be counseled on the potential impact of false accusation
- * The accused person shall be notified that the complaint was deemed to be unsubstantiated, and both parties will be cautioned on the sensitivity of the situation

A Summary of the Resolution Process

- * Report any and all incidents of suspected sexual harassment immediately (administrator, teacher, counselor, coach, etc.)
- * If there is “reasonable suspicion” that sexual harassment has resulted in suspected child abuse of a minor, there is a legal requirement to report the incident to law enforcement or the Orange County Social Services Agency within **36 hours**
- * Immediately report to law enforcement any incident of sexual harassment to law enforcement should any criminal act be suspected
- * Administrative action will vary depending upon the severity of the suspected sexual harassment
- * Administration will counsel students and/or staff members on the District Sexual Harassment Policy
- * Move the perpetrator from the class if possible, or, if needed, move the student who was subjected to harassment
- * Suspension/expulsion of a student or suspension/dismissal of an employee may result if suspected sexual harassment is substantiated
- * Communicate to perpetrator that he or she is to have no contact with the alleged victim and that intimidation or retaliation shall not be permitted

Complaints Alleging Unlawful Discrimination or Violation of Laws or Regulations



Examples of Unlawful Discrimination or Violation of Laws or Regulations:

Degrading, disparaging, inappropriate, or offensive comments, emails, texts, electronic communications, videos, photographs, drawings, or jokes pertaining to:

- * Religious belief
- * Age
- * Gender
- * Race or ethnicity
- * Sexual identification or orientation
- * One's sexual desirability
- * Expressions of physical attraction
- * Dissuading or discouraging a student or staff member from reporting incidents of discrimination
- * Disclosing the protected health information of a staff member or student

Complaints Alleging Unlawful Discrimination or Violation of Laws or Regulations

FJUHSD – AR 1312.1(a)

A. Purpose:

To ensure that all complaints against employees will be handled expeditiously with fair and proper treatment to the person bringing the complaint and the involved employee.

B. Procedure:

1. Step One – Informal Complaint

If the complaint is against an employee who is assigned to a school site, the complainant will first discuss the complaint with the Principal.

If the complaint is against an employee who is assigned to a District site, the complainant will first discuss the complaint with the appropriate Assistant Superintendent.

Complaints Alleging Unlawful Discrimination or Violation of Laws or Regulations

FJUHSD – AR 1312.1(a)

B. Procedure (Continued):

2. Step Two – Formal Complaint

- a. In the event the complainant is not satisfied with the disposition of the complaint at Step One, he or she may submit the complaint as a formal signed written complaint to the Principal, if the employee is assigned to a school location, or the appropriate Assistant Superintendent if the employee is assigned at a non-school site.
- b. The written statement shall include:
 - (1) The name of each employee involved.
 - (2) A brief, but specific summary of the nature of the complaint and the facts sufficient to inform the Superintendent, or designee, and the employee involved as to the precise nature of the complaint.

The summary should include a description of the event or behavior basic to the complaint, the circumstances, including time, place and persons present, and the identification of the person making the complaint, including name, address, and telephone number.

Complaints Alleging Unlawful Discrimination or Violation of Laws or Regulations.

FJUHSD – AR 1312.1(a)

B. Procedure (Continued):

3. Step Three – Superintendent or Designee.
4. Step Four – Board of Trustees.

C. General Provisions

1. The individual employee involved shall be advised of the nature of the complaint and shall be given every opportunity for explanation, comment, and presentation of the facts as he/she sees them if the complaint would be in any way negative to the evaluation of the employee.
2. Since it is important that the complaint be processed expeditiously, the number of days (10 days) indicated at each step should be considered a maximum and every effort should be made to expedite the process.