

## FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

**Personnel  
SEXUAL HARASSMENT**Policy Statement

The Fresno County Superintendent of Schools (FCSS) is committed to providing a safe work environment that is free of sex discrimination, including sex-based harassment against FCSS 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. The FCSS does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations.

The following policy shall apply to all allegations of sex discrimination and sex-based harassment by and against FCSS employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by a student.

**QUICK LINKS**

[Supervisor Report of Incident/Complaint](#)  
[Employee Complaint Form](#)  
[Employee Appeal Form](#)

The FCSS shall take all actions necessary to ensure the prevention, investigation, and correction of sex discrimination and sex-based harassment, including but not limited to:

1. Providing training to employees in accordance with law.
2. Publicizing and disseminating the FCSS sexual harassment policy to employees and other to whom the policy may apply.
3. Ensuring prompt, thorough, fair and 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.

**Definitions**

*Sex discrimination* includes treating an employee differently based on the employee's sex, which includes differential treatment based on sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or association with a person or group with one or more of these actual or perceived characteristics.

*Sex discrimination*, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when prohibited conduct is so severe, persistent, or pervasive that it creates an intimidating, threatening, hostile, or offensive work environment; has the effect of substantially or unreasonably interfering with an employee's term or condition of employment; or otherwise adversely affects an employee's employment opportunities.

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified

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FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

above. Conduct will constitute sex-based harassment when it takes the form of (34 CFR 106.2, 106.11):

1. Quid pro quo harassment: A FCSS employee, agent, or other individual authorized by the FCSS to provide an aid, benefit, or service in the FCSS' education program or activity conditioning the provision of aid, benefit, or service on participation in unwelcome sexual conduct.
2. Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the FCSS' education program or activity.

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of FCSS policy if it has a continuing effect on a student's or employee's ability to participate in or benefit from FCSS educational programs or activities.

3. Sexual assault, dating violence, domestic violence, or stalking, as defined in 34 CFR 106.2.

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, regardless of whether the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions (Education Code 212.5; Government Code 12940; 2 CCR 11034):

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual.
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment.
4. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the FCSS.

**Examples of Sex Discrimination and Sex-Based Harassment**

Examples of actions that might constitute sex-based harassment under state and/or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sex-based activity; sex-based jokes or stories; unwelcome sex-based slurs, epithets, threats, innuendoes; derogatory comments; sex-based degrading descriptions; or the spreading of sex-based rumors.
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails or messaging; or displaying sexually suggestive objects.

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FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; or cornering, blocking, leaning over, or impeding normal movements.

**Title IX Coordinator/Compliance Officer**

The FCSS designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX in accordance with SP HR – 4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and oversee the FCSS' response to discrimination complaints processed under SP HR – 4030 – Prohibition of Employee Discrimination, Harassment and Retaliation. The Title IX Coordinator(s) may be contacted at:

Deputy Superintendent, Instructional Services  
Office of the Fresno County Superintendent of Schools  
1111 Van Ness Avenue  
Fresno, CA 93721-2000  
(559) 265-3000  
[dlira@fcoe.org](mailto:dlira@fcoe.org)

**Training**

The FCSS or designee shall ensure that all employees receive training regarding sex discrimination and sex-based harassment in accordance with state and federal law.

Every two years, the FCSS or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment as specified in Government Code 12950.1. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the FCSS, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The FCSS' sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment.
2. The types of conduct that constitute sexual harassment.

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**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS**

3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability.
4. Strategies to prevent harassment in the workplace.
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware.
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources.
7. The limited confidentiality of the complaint process.
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment.
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the FCSS' obligation to conduct an effective workplace investigation of a harassment complaint.
10. What to do if the supervisor is personally accused of harassment.
11. The essential elements of the FCSS' anti-discrimination, harassment and retaliation policy, and how to use the policy if a harassment complaint is filed.

Employees shall receive a copy of the FCSS' sexual harassment policy which they shall read and acknowledge that they have received.

12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation.
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious.

Additionally, the FCSS or designee shall ensure that all employees receive annual training related to their duties under Title IX in accordance with 34 CFR 106.8, and that a newly hired employee receive training promptly upon hire or change of position that alters the employee's duties under Title IX. (34 CFR 106.8)

The FCSS' Title IX sex discrimination and sex-based harassment training shall include (34 CFR 106.8):

1. The FCSS' obligation to address sex-based discrimination, including sex-based harassment, in its education program or activities.
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment.
3. The notification and information requirements specified in 34 CFR 106.40 and 106.44.

The FCSS' Title IX sex-based harassment training and education program shall also include additional training required of supervisors; investigators, decisionmakers, and other persons who are responsible for implementing the FCSS' grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and Title IX Coordinators and designees. (34 CFR 106.8)

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**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS**

The FCSS or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, type of training, and name of the training provider. (2 CCR 11024)

Additionally, the FCSS or designee shall retain for at least seven years the materials used to provide training as specified in 34 CFR 106.8, and to make these materials available, upon request, to members of the public. (34 CFR 106.8)

**Notifications**

To prevent unlawful sex discrimination and sex-based harassment, including retaliation, in FCSS programs and activities, the FCSS or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in SP HR – 4030 – Prohibition of Employee Discrimination, Harassment and Retaliation.

In addition to the measures to prevent discrimination as specified in SP HR – 4030 – Prohibition of Employee Discrimination, Harassment and Retaliation, the FCSS or designee shall ensure that a copy of this SP HR – 4319.11:

1. Be displayed in a prominent location in the main administrative building or other area of the school where notices of FCSS rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every FCSS employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)
3. Appear in any school or FCSS publication that sets forth the FCSS' comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

All employees shall receive a copy of an information sheet prepared by the California Civil Rights Department (CRD) or the FCSS that contains, at a minimum, components on: (Government Code 12950)

1. The illegality of sex-based harassment.
2. The definition of sex-based harassment under applicable state and federal law.
3. A description of sex-based harassment, with examples.
4. The FCSS' complaint process available to the employee.
5. The legal remedies and complaint process available through CRD and the Equal Employment Opportunity Commission (EEOC).
6. Directions on how to contact CRD and the EEOC.
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC.

Additionally, the FCSS shall post, in a prominent and accessible location, the CRD poster on discrimination in employment and the illegality of sex-based harassment, and the CRD poster regarding transgender rights. (Government Code 12950)

**Complaint Procedures**

All complaints and allegations of sex discrimination and sex-based harassment by and against employees shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and SP HR – 4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

If sex discrimination or sex-based harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the sex discrimination or sex-based harassment, prevent recurrence, and address any continuing effects.

Adopted: 10/01/2020

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**CSBA**

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