

# Chula Vista Elementary School District

## **SEXUAL HARASSMENT**

Sexual harassment in employment violates the provisions of the Fair Employment and Housing Act, specifically Government Code section 12940 (a), (j), and (k).

### ***The Facts About Sexual Harassment***

The Fair Employment and Housing Act (FEHA) defines sexual harassment as harassment based on sex or of a sexual nature; gender harassment; and harassment based on pregnancy, childbirth, or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. The following is a partial list of types of sexual harassment:

- Unwanted sexual advances
- Offering employment benefits in exchange for sexual favors
- Actual or threatened retaliation
- Leering; making sexual gestures; displaying sexually suggestive objects, pictures, cartoons or posters
- Making or using derogatory comments, epithets, slurs or jokes
- Sexual comments including graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations
- Physical conduct, e.g., touching, assault, impeding or blocking movements

### ***Obligations of the District***

All employers must take the following actions against harassment:

- Take all reasonable steps to prevent discrimination and harassment from occurring. If harassment does occur, take effective action to stop any further

harassment and to correct any effects of the harassment.

- Develop and implement a sexual harassment prevention policy with a procedure for employees to make complaints and for the employer to investigate complaints. Policies should include provisions to:
  - Fully inform the complainant of his/her rights and any obligations to secure those rights.
  - Fully and effectively investigate. The investigation must be thorough, objective, and complete. Anyone with information regarding the matter should be interviewed. A determination must be made and the results communicated to the complainant, to the alleged harasser and, as appropriate, to all others directly concerned.
  - Take prompt and effective corrective action if the harassment allegations are proven. The employer must take appropriate action to stop the harassment and ensure it will not continue. The employer must also communicate to the complainant that action has been taken to stop the harassment from recurring.
- Post the Department of Fair Employment and Housing (DFEH) employment poster in the workplace.
- All employees should be made aware of the seriousness of violations of the sexual harassment policy.

### ***Employer Liability***

All employers, regardless of the number of employees, are covered by the harassment section of the FEHA. Employers are generally liable for harassment by their supervisors or agents. Harassers, including both supervisory and nonsupervisory personnel, may be held personally liable for harassing an employee or coworker or for aiding and abetting harassment.

Additionally, the law requires employers to take "all reasonable steps to prevent harassment from occurring." If an employer has failed to take such preventative measures, that employer can be held liable for the harassment.

In addition, if an employer knows or should have known that a **nonemployee** (e.g. client or customer) has sexually harassed an employee, applicant, or person providing services to the employer and fails to take immediate and appropriate corrective action, the employer may be held liable for the actions of the nonemployee.

An employer might avoid liability if

- The harasser is not in a position of authority, such as a lead, supervisor, manager or agent;
- The employer had no knowledge of the harassment;
- There was a program to prevent harassment; and
- Once aware of any harassment, the employer took immediate and appropriate corrective action to stop the harassment.

### ***Preventing Sexual Harassment***

A program to eliminate sexual harassment from the workplace is not only required by law, but is the most practical way to avoid or limit liability if harassment should occur despite preventative efforts.

### ***Training of District Employees***

All employees will be made aware of the seriousness of violations of the sexual harassment policy. Supervisory personnel will be educated about their specific responsibilities.

### ***Complaint Procedure***

The District will take immediate and appropriate action when he/she knows or should have known, that sexual harassment has occurred. The District will take action to stop any further harassment and to ameliorate any effects of the harassment. The District's policy includes the following provisions:

- The complainant shall be informed of his/her rights and any obligations to secure those rights.
- The complaint shall be fully investigated and all persons with information regarding the matter will be interviewed. The results of

such investigation shall be communicated to the complainant and the alleged harasser.

- If harassment is proven, prompt and effective remedial action shall be taken.

### **Filing a Complaint**

Employees or job applicants who believe that they have been sexually harassed should notify the District's Human Resources Department immediately.

Employees or job applicants who believe that they have been sexually harassed may, within one year of the harassment, file a complaint of discrimination with DFEH. DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence of sexual harassment and settlement efforts fail, the Department may file a formal accusation against the employer and the harasser. The accusation will lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed on behalf of the complaining party.

If the Commission finds that discrimination has occurred, it can order remedies including:

- Fines or damages for emotional distress from each employer or person found to have violated the law.
- Hiring or reinstatement.
- Back pay or promotion.
- Changes in the policies or practices of the involved employer.

Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

### **Protection Against Retaliation**

Chula Vista Elementary School District policy, state law, and federal law forbid reprisal or retaliation against any employee who opposes sexual harassment, files a complaint, testifies, assists or participates in any manner in an investigation, proceeding or hearing.

## **CHULA VISTA ELEMENTARY SCHOOL DISTRICT**

### **SEXUAL HARASSMENT SUPPORT TEAM**

Jeffrey J. Thiel, Ed.D.  
Assistant Superintendent  
Human Resources Services and Support

Peg Myers, Director  
Human Resources Services and Support

Charles Grisier, Ed.D.  
Principal  
Liberty Elementary

Araceli Ibarra Roman  
Associate Principal  
McMillin Elementary

If you feel you have been a subject of sexual harassment, please contact:

- Human Resources Services and Support
- A member of the Sexual Harassment Support Team
- Your immediate supervisor
- Your union representative

For more information, contact DFEH toll free at  
**(800) 884-1684**  
or visit their website at  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

### **Policy and Procedures Developed Jointly by:**

Chula Vista Classified Employees Organization  
Chula Vista Educators  
Chula Vista Elementary School District

## **BOARD OF EDUCATION**

Leslie Ray Bunker  
Lucy Ugarte  
Kate Bishop  
Eduardo Reyes, Ed.D.  
Francisco Tamayo

## **SUPERINTENDENT**

Francisco Escobedo, Ed.D.



The Chula Vista Elementary School District is committed to providing a working and learning environment free from discrimination, harassment, intimidation and bullying. The District prohibits discrimination, harassment, intimidation and bullying based on race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, genetic information; the perception of one or more of such characteristics, or association with a person or group with one or more of these actual or perceived characteristics in any program, practice or activity it conducts. For inquiries or complaints related to employee-to-employee, student-to-employee, or work/employment related discrimination or harassment, contact: Human Resources Service and Support Department, Jeffrey Thiel, Ed.D., Assistant Superintendent/ Title IX Coordinator, 84 East J Street Chula Vista, CA 91910, Jeffrey.Thiel@cvesd.org, (619) 425-9600, Ext. 1340.