SEXUAL HARASSMENT

Definitions

Prohibited 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 made against another person of the same or opposite sex in the work or educational setting when: [Education Code (EC) 212.5; 5 CCR 4916]

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 such conduct by the individual is used as the basis for an employment decision affecting him/her.

3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The conduct is sufficiently severe, persistent, pervasive, or objectively offensive so as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.

4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the Monterey County Office of Education (MCOE).

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors

2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects

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; cornering, blocking, leaning over, or impeding normal movements

Prohibited sexual harassment may also include any act of retaliation against an individual who reports a violation of MCOE's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Training

Every two years, the Assistant Superintendent of Human Resources shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All newly hired or promoted supervisory employees shall receive training within six months of their assumption of the supervisory position. [Government Code (GC) 12950.1]

MCOE's training and education program for supervisory employees shall include information and practical guidance regarding the federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment. The training shall also include all of the content specified in 2 CCR 7288.0 and practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. [GC 12950.1; 2 CCR 7288.0]

In addition, the Assistant Superintendent of Human Resources shall ensure that all employees receive periodic training regarding MCOE's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use MCOE's complaint procedures.

Notifications

A copy of the MCOE policy and this administrative regulation shall: [EC 231.5]

1. Be displayed in a prominent location in the main administrative building, County Office, or other area of the school where notices of MCOE rules, regulations, procedures, and standards of conduct are posted

2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Appear in any school or MCOE publication that sets forth the school's or MCOE's comprehensive rules, regulations, procedures, and standards of conduct

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of MCOE information sheets that contain, at a minimum, components on: [GC 12950]

1. The illegality of sexual harassment

2. The definition of sexual harassment under applicable state and federal law

3. A description of sexual harassment, with examples

4. MCOE's complaint process available to the employee

(cf. 4031 - Complaints Concerning Discrimination in Employment)

5. The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact DFEH and the EEOC

7. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC.

In addition, MCOE shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. [GC 12950]