

North Orange County Regional Occupational Program
SEXUAL HARASSMENT
ROP AR 4119.11, 4219.11, 4319.11

AR 4119.11, 4219.11, 4319.11 (a)

Administrative Regulations

All Personnel

The following administrative regulation shall apply to all allegations of sexual harassment involving employees and job applicants, but shall not be used to resolve any complaint by or against a student.

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature, regardless of whether or not the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite gender, in the work or educational setting when: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

1. Submission to the conduct is made either expressly or by implication a term or condition of the other's employment;
2. Submission to or rejection of such conduct by the other individual is used as the basis for an employment decision affecting them;
3. The conduct has the purpose or effect of unreasonably interfering with the other individual's work or academic performance; creating an intimidating, hostile or offensive work or educational environment; or of adversely affecting the other individual's evaluation, advancement, assigned duties, or any other condition of education, employment or career development; and/or
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting them regarding benefits, services, honors, programs or activities available at or through the ROP.

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which the ROP exercise substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A ROP employee conditioning the provision of a ROP aid, benefit, or service on the student's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to NOCROP's education program or activity.

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3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291.

Examples of Sexual Harassment

Examples of actions that might constitute sexual harassment under state or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, coworker, or any non-employee, include but are not limited to the following:

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.

Title IX Coordinator/Compliance Officer

The ROP designates the following individual as the responsible employee to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 in accordance with AR 4119.12/4219.12/4319.12 – Title IX Sexual Harassment Complaint Procedures, as well as to oversee, investigate, and resolve sexual harassment complaints processed under AR 4030 – Nondiscrimination in Employment. The Title IX Coordinator may be contacted at:

Assistant Superintendent, Educational Services or designee
385 N. Muller St., Anaheim, CA 92801
(714) 502-5877
dlynch@nocrop.us

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Training

Every two years, the Superintendent 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. 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 NOCROP, 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)

NOCROP's 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;
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;

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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 NOCROP's 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 ROP's anti-harassment policy, and how to use the policy if a harassment complaint is filed;
 - a. Employees shall receive a copy of the ROP's sexual harassment policy and administrative regulations, 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; and
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 others 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

The Superintendent 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, the type of training, and the name of the training provider. (2 CCR 11024)

Notifications

The Superintendent or designee shall notify employees NOCROP does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the ROP may be referred to the ROP's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

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The ROP shall notify employees and applicants for employment of the name or title, office address, email address, and telephone number of the ROP's Title IX Coordinator. (34 CFR 106.8)

A copy of the Board policy and this administrative regulation shall:

1. Be displayed in a prominent location in the Education Center, in the Human Resources Department and at each of the other ROP sites;
2. Be provided to each employee at the beginning of each school year or whenever a new employee is hired (Education Code 231.5);
3. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the ROP website (34 CFR 106.8);
4. Be included, along with the name or title and contact information of the Title IX Coordinator, **in the employee handbook**. (34 CFR 106.8).

All employees shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or the ROP that contains, at a minimum, components on: (Government Code 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. NOCROP's complaint process available to the employee;
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 EEOC; and
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 DFEH and the EEOC

In addition, NOCROP shall post, in a prominent and accessible location, the DFEH poster on discrimination in employment and the illegality of sexual harassment and the DFEH poster regarding transgender rights. (Government Code 12950)

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AR 4119.11, 4219.11, 4319.11 (f)

Complaint Procedures

All complaints and allegations of sexual harassment by and against employees shall be investigated and resolved in accordance with law and NOCROP procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 – Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 – Nondiscrimination in Employment.

If sexual 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 sexual harassment, prevent recurrence, and address any continuing effects.