

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: **Certificated Employee Appreciation Week Proclamation**

RECOMMENDATION:

The Superintendent is recommending the Board of Trustees approve the Certificated Employee Appreciation Week Proclamation.

BACKGROUND:

Teachers are officially honored by the State and Nation each year. This year the California Day of the Teacher is May 11, 2022. National Teacher Appreciation Week will be celebrated May 1-7, 2022. In addition to these recognitions the Rescue USD School Board has an interest in celebrating all of our certificated employees.

STATUS:

The Rescue USD has proclaimed May 1-7, 2022 as Certificated Employee Week and takes this time to honor the dedicated men and women who lend their passion and skills to educating and supporting our children and to acknowledge the crucial role that our certificated employees play in making sure every child receives a quality public education. Certificated employees impact our students on a daily basis and we celebrate their achievements.

We have great admiration and appreciation for our certificated employees each and every year because we have such an incredible team, but this year we are especially grateful to and for our certificated employees for their unwavering commitment to our students and their families. The professionalism, love, and dedication our certificated employees have shown this year through the COVID 19 pandemic has been phenomenal. Our certificated employees had to completely change the way they support our students. They have gone through change after change and have worked incredibly hard to adhere to health and safety protocols for themselves and our students. Time after time they have proven to be role models and examples for other districts to follow because of their quick and effective transitions to whatever they are faced with. Our parents and students feel the genuine love, support, and care from our certificated employees. It is our distinct privilege to honor our certificated employees with this Proclamation.

FISCAL IMPACT:

None

BOARD GOAL:

Board Focus Goal IV – STAFF NEEDS:

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to provide quality education for our students.

Board Focus Goal VI - CULTURE OF EXCELLENCE

Create and promote practices that support, reward and incentivize employees to perform at exceptional levels for the benefit of our students.

Rescue Union School District

Proclamation

Certificated Employee Appreciation Week **May 1-7, 2022**

Whereas, certificated employees make public schools great; and

Whereas, certificated employees work to open students' minds to ideas, knowledge and dreams; and

Whereas, certificated employees keep American democracy alive by laying the foundation for good citizenship; and

Whereas, certificated employees fill many roles as listeners, explorers, role models, motivators and mentors; and

Whereas, certificated employees continue to influence us long after our school days are only memories; and

Whereas, certificated employees, such as teachers, school nurses, and counselors help to ensure that the physical and social emotional needs of our students are being met;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Rescue Union School District proclaims the week of May 1-7, 2022, as the *Certificated Employee week; and*

BE IT FURTHER RESOLVED that the Board of Trustees urges that we observe this week by taking time to recognize and acknowledge the impact of certificated employees on our lives.

Michael Gordon, President, Board of Trustees

Date

RESCUE UNION SCHOOL DISTRICT

**AGENDA ITEM: Classified and Confidential School Employee
Appreciation Week Proclamation**

RECOMMENDATION:

The Superintendent is recommending the Board of Trustees approve the Classified and Confidential School Employee Appreciation Week Proclamation.

BACKGROUND:

Classified School Employee Week began as a resolution at CSEA's Annual Conference in 1984. Two years later, it was adopted as California Senate Bill 1552 and decreed to be an official recognition of classified school employees. Rescue USD celebrates classified and confidential employees during the third full week in May.

STATUS:

The District appreciates our classified and confidential staff and takes this time to honor them and acknowledge the contributions they make and the hard work they do each day to make our Rescue USD schools great for every child. Classified and confidential staff impact our schools, our students, our staff and our parents by providing their important services to the District.

Rescue Union School District values and appreciates our classified and confidential staff each and every year, but the 2021-2022 school year has been an unprecedented year, fraught with all the stress, changes, added pressures and duties regarding health and safety stemming from COVID-19. Our classified and confidential employees have yet again taken it all in stride; seeking to do the very best they can, despite the conditions. We are indeed grateful to and for our employees who still come to work, serve our students and families, and keep our district up and running no matter what. We are privileged to honor our classified and confidential employees with this proclamation.

FISCAL IMPACT:

None

BOARD GOAL:

Board Focus Goal IV – STAFF NEEDS:

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to provide quality education for our students.

Board Focus Goal VI - CULTURE OF EXCELLENCE

Create and promote practices that support, reward and incentivize employees to perform at exceptional levels for the benefit of our students.

Rescue Union School District

PROCLAMATION

Classified and Confidential School Employee Appreciation Week

May 15-21, 2022

***Whereas,** the efforts of classified and confidential staff members in the Rescue Union School District are essential and critical to the successful functioning of the District and programs; and*

***Whereas,** classified and confidential school employees contribute to the establishment and promotion of a positive instructional environment and play a vital role in providing for the welfare and safety of the students in the Rescue Union School District; and*

***Whereas,** Rescue Union School District classified and confidential staff members assist in the support of all educational programs and services; and*

***Whereas,** classified and confidential employees are indispensable in providing high quality business, data processing, transportation, maintenance, nutritional services, technology support and educational-related programs and services; and*

***Whereas,** classified and confidential employees in the Rescue Union School District are deserving of special recognition for their many contributions in a wide variety of roles to the institution of public education in this county, state and nation;*

***NOW, THEREFORE, BE IT RESOLVED,** that the Board of Education of the Rescue Union School District proclaims the week of May 15-21, 2022 to be Classified and Confidential School Employee Week; and*

***BE IT FURTHER RESOLVED** that the Rescue Union School District Board of Trustees urges all schools and staff members throughout the District to recognize classified and confidential employees during this week as partners in education and to applaud their hard work and dedication to the success of public education.*

Michael Gordon, President, Board of Trustees

Date

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: Partnering with EDCOE and Alder Teacher Residency for 2022-2023

RECOMMENDATION:

The Superintendent is recommending the Board of Trustees receive a report on our partnership with the El Dorado County Office of Education (EDCOE) and Alder GSE Teacher Residency for the 2022-2023 school year.

BACKGROUND:

Alder GSE is an innovative graduate school of education and a powerful, community based, professional workforce development pathway. Through a one -year program Alder supports California community members in traditionally underserved communities to earn an MA and teaching credential through an apprenticeship model. 88% of their teacher candidates/residents who enroll complete the degree and 96% are hired to become teachers. In addition, as per principal data from across the state, Alder GSE teachers are highly effective and retained at high levels.

Alder GSE is focused on:

- Revolutionizing *who* becomes teachers in California. Consider Alder’s current cohort of over 250 Resident Teacher Candidates:
 - o 84% From Historically Under-Represented Communities (almost all of whom come from the communities where they will teach)
 - o 66% First Generation College Graduates
 - o 53% Pell Grant Recipients
- Making a difference for K12 students and their communities.
 - o 95% of Principals rated Alder GSE graduates “more effective” or “much more effective” than other new hires
 - o Ten years into their work, 62% of all Alder GSE graduates are still teaching or leading in the K12 school systems where they were trained and only 41% of all other new teachers hired the same years remain teaching or leading in those systems.
- Developing new teachers and supporting mentor teachers in deeply engaging with questions, research and ideas around diversity, equity and inclusion.
- Sharing tuition with K12 LEAs (districts, and county offices to create a meaningful partnership that builds a pipeline of excellent teachers.

STATUS:

Rescue intends to collaborate with El Dorado County Office of Education (EDCOE) and Alder GSE to develop excellent new teachers for Rescue USD.

FISCAL IMPACT:

The fiscal impact is minimal and will eventually be determined based on the stipend and scholarship amount offered and likely EDCOE grant funding. Any Rescue USD funds needed for this program will come for our Educator Effectiveness Grant.

BOARD GOALS:

Board Focus Goal I - STUDENT NEEDS

A. Student Safety and Well Being: Enhance and encourage social, emotional, ethical and civic learning by providing a safe, supportive and diverse environment.

B. Curriculum and Instruction: Provide a meaningful, innovative learning environment using Common Core, and other student content standards and research-based, progressive, effective instructional methodology, instructional materials, staff development and technology that will ensure student success in career and college.

Board Focus Goal II – FISCAL ACCOUNTABILITY

Keep the district fiscally solvent through prudent LCAP aligned budget processes in order to meet the needs of our students.

Board Focus Goal III - COMMUNICATION / COMMUNITY INVOLVEMENT

Establish and maintain consistent and effective communication that is transparent and timely in an effort to provide and receive information that will engage and educate our District and community.

Board Focus Goal IV - STAFF NEEDS

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to provide quality education for our students.

Board Focus Goal VI – CULTURE OF EXCELLENCE

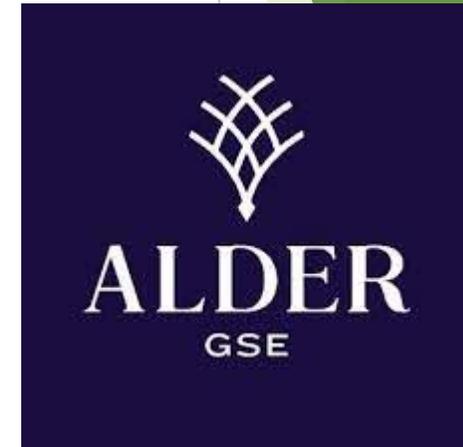
Create and promote programs that support, reward and incentivize employees to perform at exceptional levels for the benefit of our students.

Alder Teacher Residency

- [Black Oak Mine Unified School District](#), K-12
- [Buckeye Union School District](#), K-8
- [Camino Union School District](#), K-8
- [Charter Alternative Programs](#), K-12
- [El Dorado County Office of Education](#)
- [El Dorado Union High School District](#), 9-12
- [Gold Oak Union School District](#), K-8
- [Gold Trail Union School District](#), K-8
- [Indian Diggings School District](#), K-8
- [Lake Tahoe Unified School District](#), K-12
- [Latrobe School District](#), K-8
- [Mother Lode Union School District](#), K-8
- [Pioneer Union School District](#), K-8
- [Placerville Union School District](#), K-8
- [Pollock Pines School District Opens in new window](#), K-8
- [Rescue Union School District](#), K-8
- [Silver Fork School District](#), K-8

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- Alder GSE is a graduate school of education, fully accredited by CCTC and WASC.
 - **Partnering** with EDCOE and district partners in El Dorado County
 - Through the partnership we **recruit and educate** teacher candidates in a **one-year residency program** in the K–12 school system where the teacher will be employed.
 - Residents earn a **credential and Master's** at the end of the year.

Alder Teacher Residency

**2022-2023
EDCOE/Alder
Director recruit new
mentors and new
residents**

**First year
(2022-2023) we
recruit 12 mentors
and 12 resident
participants (future
teachers) in our
county from your
schools.**

**2023-2024 school year -22
resident participants and
mentors**

**Contribute to
Teacher Workforce
Stability Over Time
and Career Pathway
(Retention &
Mentor
Development)**

**El Dorado County Districts currently have
over 300 teachers 55 and over**

Alder Teacher Residency

WHAT WE DO

WHY IT MATTERS

Recruit from the local community	→	Increases the pool of teachers whose demographics reflect those of their students, provides career pathway for district staff
Provide a year-long residency program with an expert mentor educator	→	Apprenticing with an expert is the first step to becoming one
Bridging research and practice		
Offer a rigorous curriculum of research-based coursework	→	New teachers are prepared to skillfully respond to changing educational needs
Prepare educators at the schools in which they will work	→	Transforms their ability to shine from their first day in front of the classroom
Ensure priority hiring	→	New teachers are specifically prepared for an available position; schools get a pipeline of teachers developed by their best instructors
Ensure some sort of a living stipend for residents	→	Expands the teaching pathway to people who otherwise may not be able to afford it

District Commitments



District covers Mentor Stipend

***GRANT MAY COVER or you can use teacher effectiveness dollars

District covers Resident Scholarship

District who hosts resident(s) gets priority hiring

***GRANT MAY COVER or can use teacher effectiveness dollars

EDCOE/Alder Commitments



Alder/EDCOE pay salary of Director of Teacher Residency

Director of Residency recruits mentor teachers from your district, recruits residents and provides all training and coaching, this provides a career ladder for your staff and excellent PD for your best mentor teachers

EDCOE is applying for 2 grants to cover: Mentor Stipend and Resident Scholarships

If grants are not received districts would provide Mentor Stipend and resident Scholarship

Resident Student Commitments



Resident Student pays \$19k tuition to Alder

(loans and scholarships available)

District Partner Benefits

Improved retention, effectiveness and demographics

Together we can realize the results we have achieved these past seven years

Improved K12 student learning during mentor/resident year

Third party researchers found significant, positive results in Alder mentor/resident classrooms on K12 student learning

Attractive opportunity for new talent/recruits

We offer a compelling way for people you want to bring in to earn their Masters and Credentials and we co-brand the recruiting materials with you

Personalized recruiting that meets the specific needs of your schools

We help you recruit residents based on your specific need e.g. math credentials, science credentials, special education

Affordable cost model that is sustainable

We encourage you to design a system that will weather economic downturns and we have modeled how to do this for seven years now.

Shared definition and specific training for your schools

We work with you to understand what it is that is going to align and be meaningful to your best teachers and to your new teachers. The Director is “translating” and bridging theory and practice every day

Mentor training

We run one full day seminar for Mentor Teachers each month. They report that they value this time even more than the stipend

A potential platform for systemic change

Some Superintendents see the opportunity to meet with the best teachers in their district once/ month as a platform for change

District Commitments and Benefits

Stipend

Mentors receive between \$500 to \$2,000 and additional funds for PD

Additional Training to your Mentors

Directors provide training to mentors

Cohort of Peers

This cohort becomes a great support network

Opportunity to train others

Master teachers become better when they support others to observe, experience and practice best practices

Classroom release time

One hour per week, One day per month, Full weeks in Fall and Spring

Opportunity to leverage two teachers in the classroom

With another adult in the classroom, mentors have opportunities for differentiation, thought partnership, reflection, more attention for each student and additional help with grading, lesson planning, etc.

Residents

- ▶ Earn a Masters and Credential in one year
- ▶ Priority hiring in the Districts they were placed
- ▶ Career Pathway for District staff
- ▶ Principals prefer those who have been trained by the best teachers in their system
 - ▶ Dedicated 1:1 personalized support
 - ▶ Residents are supported by an EDCOE Director, Master Teacher and coursework is designed to bridge theory and practice
- ▶ Affordable tuition
 - ▶ Tuition is \$19k and student have access to loans and additional scholarships
- ▶ Cohort of peers
- ▶

Questions

ITEM #: 6
DATE: April 5, 2022

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: **Updates/Review:**
Board Policy, Administrative Regulations and Board Bylaws

RECOMMENDATION:

The Superintendent is recommending the Board of Trustees receive the listed policies for first reading and possible consideration for action.

BACKGROUND:

The Governing Board believes that its primary responsibility is to act in the best interests of every student in the district. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the district. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

STATUS:

Policies identified for review and/or changes are submitted to the Board for first reading and possible consideration of approval. A table providing a listing of revised policies and summary of changes is included.

FISCAL IMPACT:

NA

BOARD GOAL(S):

Board Focus Goal III – COMMUNICATION/COMMUNITY INVOLVEMENT:

Establish and maintain consistent and effective communication that is transparent and timely in an effort to provide and receive information that will engage and educate our District and community.

RUSD Board Policy, Administrative Regulations and Board Bylaws
April 5, 2022

POLICY	TITLE	REQUIREMENT
<i>First Reading</i>		
AR 4030	Nondiscrimination in Employment REVISE	Regulation updated to reflect NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026) which require that allegations of sexual harassment that meet the federal definition be investigated through Title IX complaint procedures, as described in AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures, rather than the complaint procedures detailed in this regulation. 7/20
BP/AR 4119.11 4219.11 4319.11	Sexual Harassment REVISE	<p>Policy updated to reflect NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026) which require that complaints of behavior that meets the federal definition of sexual harassment be addressed through new Title IX complaint procedures. Title of compliance officer changed to Title IX Coordinator pursuant to federal regulations, and responsibility assigned to Title IX Coordinator to receive complaints and determine the appropriate complaint procedure to use.</p> <p>Policy updated to clarify that, in some instances, it may be necessary to concurrently review a sexual harassment complaint under both the Title IX sexual harassment complaint procedures and the district's procedure reflecting state law, as described in AR 4030 - Nondiscrimination in Employment, in order to meet the applicable timelines. Policy also adds the requirement to provide supportive measures to the respondent as well as the complainant.</p> <p>Regulation updated to reflect NEW LAW (SB 778, 2019) which (1) requires a district with five or more employees to provide two hours of sexual harassment training to supervisory employees and one hour of sexual harassment training to nonsupervisory employees by January 1, 2021 and every two years thereafter, and (2) requires new nonsupervisory employees and employees promoted to supervisory positions to receive the training within six months of hire or promotion. Regulation also reflects NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026) which require the district to designate a Title IX Coordinator and disseminate the Coordinator's contact information.</p> <p>Regulation updated to add section on "Definitions," including the federal definition of sexual harassment for purposes of applying the Title IX complaint procedures. Section identifying the Title IX Coordinator(s) moved and revised to reference CSBA's AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Section on "Notifications" adds federal requirement to disseminate the district's sexual harassment policy and procedures, along with the name and contact information of the Title IX Coordinator, by posting them in a prominent location on the district's web site and including them in any handbook provided to employees or employee organizations. New section on "Complaint Procedures" references the applicable procedures and the responsibility of the district to take prompt action to stop the sexual harassment, prevent recurrence, and address any continuing effects. 10/20</p>

RUSD Board Policy, Administrative Regulations and Board Bylaws
April 5, 2022

POLICY	TITLE	REQUIREMENT
<p>AR/E 4119.12 4219.12 4319.12</p>	<p>Title IX Sexual Harassment Complaint Procedures ADOPT</p>	<p>New regulation reflects NEW FEDERAL REGULATIONS (85 Fed. Reg. 30026) which establish a Title IX complaint procedure for addressing complaints of behavior that meets the federal definition of sexual harassment. Regulation describes the types of behavior subject to these complaint procedures, the process for filing a complaint with the Title IX Coordinator, the requirement to offer supportive measures to the complainant, the option for the parties to participate in an informal resolution process, required notifications, the investigation process, issuance of a written decision, the right to appeal the decision, and the requirement to maintain records of sexual harassment complaints and training materials for seven years. Regulation updated to clarify that a sexual harassment complaint that is dismissed or denied under Title IX may still be subject to review under state law pursuant to AR 4030 - Nondiscrimination in Employment and thus the two procedures should be implemented concurrently in order to meet the applicable timelines. Regulation also updated to clarify that the applicability of the Title IX sexual harassment complaint procedures is limited to conduct that allegedly occurs in an education program or activity over which the district exercises control; revise the timeframe for concluding the complaint process from 45 to 60 days; reflect the right to pursue civil law remedies; and add the requirement to maintain a record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment. 7/20 and 10/20</p> <p>New exhibit presents a sample of the required notification to employees, job applicants, and employee organizations regarding the district's Title IX sexual harassment policy, the district's Title IX coordinator, and grievance procedures pursuant to 34 CFR 106.8. 10/20</p>

Rescue Union ESD

Administrative Regulation

Nondiscrimination In Employment

AR 4030

Personnel

Cautionary Notice: The following administrative regulation reflects federal Title IX regulations added by 85 Fed. Reg. 30026, effective August 14, 2020, which establish a process for investigating and resolving allegations of conduct that meets the federal definition of sexual harassment. The federal regulations preempt any conflicting state law or regulations, but the interaction between federal and state law is not always clear. Districts should consult legal counsel if questions about a potential conflict arise. Districts should also note that 18 states, including California, have sued the U.S. Department of Education to stop the implementation of these regulations. A preliminary injunction seeking to postpone the effective date of the regulations and prohibit their enforcement is currently pending. If the court grants the injunction, the following administrative regulation will not take effect.

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1240 - Volunteer Assistance)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

(cf. 4032 - Reasonable Accommodation)

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage~~coordinate~~ the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Superintendent

2390 Bass Lake Road,

Rescue, CA 95672

530-677-4461

colson@rescueusd.org

jshoemake@rescueusd.org

Measures to Prevent Discrimination

Note: Pursuant to Government Code 12940 and 2 CCR 11023, the district is required to take all reasonable steps to prevent unlawful discrimination and harassment. 2 CCR 11023 specifies certain requirements to be included in the district's policy. The following section reflects the requirements of 2 CCR 11023 and other applicable laws or regulations, as indicated.

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

Note: Pursuant to Government Code 12950, districts are required to post the California Department of Fair Employment and Housing's (DFEH) posters entitled California Law Prohibits Workplace Discrimination and Harassment and Transgender Rights in the Workplace, as provided in item #1. DFEH rules require that these materials be posted electronically and in every location where the district has employees (e.g., district office, hiring office, each school site). These posters and the rules for posting are available on the DFEH web site.

In addition, 2 CCR 11049 requires posting a notice of the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth. Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically ~~on computers~~ in a conspicuous location on computers for employee use, up-to-date, the California Department of Fair Employment and Housing (DFEH) posters on the prohibition of in regard to workplace discrimination and harassment, ~~and~~ the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.9)
 - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
 - b. Posting them in all district schools and offices, including staff lounges and other prominent locations
 - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 4111/4211/4311 - Recruitment and Selection)

3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)

- a. Printing and providing a copy ~~of the policy~~ to all employees, with an acknowledgment form for each employee to sign and return
- b. Sending ~~a copy~~~~the policy~~ via email with an acknowledgment return form
- c. Posting ~~a copy~~~~the policy~~ on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
- d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
- e. Any other way that ensures employees receive and understand the policy

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

4. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
5. Provide training ~~to employees, volunteers, and interns~~ regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

The district may also provide bystander intervention training to employees ~~which~~~~that~~ includes information and practical guidance on how to recognize potentially problematic behaviors and ~~which may motivate~~~~motivates~~ them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law
7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

Complaint Procedure

Note: 2 CCR 11023 **mandates** that a district's policy include a complaint process with specified requirements. Some of the requirements of 2 CCR 11023 are similar to those required under existing case law.

Courts have held that liability may be mitigated for hostile environment employment discrimination when (1) the employer took reasonable care to prevent and promptly correct the discriminatory or harassing conduct (i.e., provided a complaint procedure) and (2) the aggrieved employee unreasonably failed to take advantage of corrective opportunities offered by the employer (i.e., failure to file a complaint). In its June 1999 Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, the Equal Employment Opportunity Commission (EEOC) outlines the elements of an effective complaint procedure to include (1) a clear explanation of the process; (2) protection against retaliation; (3) designation of multiple individuals authorized to receive complaints; (4) a mechanism for prompt, thorough, and impartial investigation; (5) assurance of immediate and appropriate corrective action; and (6) information about time frames for filing charges with EEOC or DFEH.

While EEOC's guidance recommends a "prompt" investigation, neither the law nor EEOC delineates a specific time frame for resolution. EEOC's guidance acknowledges that whether an investigation is considered "prompt" may vary depending on the seriousness and complexity of the circumstances and that intermediate measures may be necessary to prevent further harassment during the investigation. The following section, including the listed timelines, is consistent with EEOC's guidance and should be modified to reflect district practice.

In lieu of using the procedures described below, complaints of sexual harassment must be addressed through the federal Title IX complaint procedures established pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, if the alleged conduct meets the federal definition of sexual harassment. Pursuant to 34 CFR 106.30, Title IX sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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 the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. See BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment and AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.

Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.

Any other complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's employee's direct supervisor may be bypassed in filing a complaint when where the supervisor is the subject of the complaint.

The complainant may ~~file a written complaint in accordance with this procedure or may~~ first attempt to resolve the situation informally with the complainant's employee's supervisor before filing a written complaint.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, any

~~available~~^{other} evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be ~~disclosed~~^{revealed} as necessary to conduct an effective investigation.

(cf. 3580 - District Records)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to ~~prevent~~^{ensure that} further incidents ~~are prevented~~. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s)

that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session ~~Purposes and Agendas~~)

Other Remedies

Note: Items #1-3 below state the time limits within which complaints must be filed.

EEOC's guidance states that it is important for employers' nondiscrimination policies to contain information about timeframes for filing charges of unlawful discrimination or harassment with EEOC or DFEH. Employees should be informed that the deadline for filing charges starts to run from the last date of the unlawful act, not from the conclusion of the district's complaint investigation. Pursuant to DFEH procedures, DFEH will automatically forward any complaint it has accepted for investigation to EEOC when the matter falls within EEOC's jurisdiction.

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either DFEH or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

Note: As amended by AB 9 (Ch. 709, Statutes of 2019), Government Code 12960 extends the period of time in which a complaint alleging employment discrimination pursuant to Government Code 12940-12952 may be filed with DFEH, from one year to three years following the alleged discriminatory act(s). That period may be extended under certain circumstances. Districts should consult legal counsel if any questions arise.

1. For filing a complaint with DFEH alleging a violation of Government Code 12940-12952, within ~~three years~~ one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)

2.

Note: 42 USC 2000e-5 specifies that a person must file a discrimination complaint with EEOC within 180 days of the alleged discriminatory act. Pursuant to 42 USC 2000e-5, the 180-day timeline for compensation discrimination starts when the discriminatory paycheck is received and that each discriminatory paycheck restarts the timeline for the filing of a complaint.

2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing~~To file~~ a ~~valid~~ complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

Regulation RESCUE UNION SCHOOL DISTRICT

approved: April 2002 Rescue, California

revised: April 12, 2016

revised: October 10, 2017

revised: October 8, 2019

Considered: April 5, 2022

Rescue Union ESD

Board Policy

Sexual Harassment

BP 4119.11

4219.11

4319.11

Personnel

Note: Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 mandate the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Sexual harassment is prohibited pursuant to Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82), as well as the California Fair Employment and Housing Act (Government Code 12900-12996). Whether a complaint of sexual harassment is addressed through federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, or procedures adopted pursuant to 2 CCR 11023 is dependent on whether the alleged conduct meets the more stringent federal definition of sexual harassment or the state definition. In order to meet the applicable timelines, in some instances it may be necessary to review a complaint under both procedures concurrently. See the accompanying administrative regulation, AR 4030 - Nondiscrimination in Employment, and AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.

Pursuant to 2 CCR 11034, the district may be liable for sexual harassment committed by a supervisor, coworker, or a third party. Pursuant to Government Code 12940, employers may also be held liable for sexual harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Governing Board is committed to providing a safe work environment that is free of harassment and intimidation. The Board prohibits sexual harassment against district 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.

~~Sexual harassment includes, but is not limited to, harassment that is based on the gender, gender identity, gender expression, or sexual orientation of the victim.~~

~~This policy shall apply to all district employees and to other persons on district property or with some employment relationship with the district, such as interns, volunteers, contractors, and job applicants.~~

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

Note: Government Code 12940 clarifies that sexual harassment includes harassment based on sex, gender, pregnancy, childbirth, or related medical conditions.

Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

Note: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sexual harassment cases. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in Burlington Industries v. Ellerth held that, for certain claims under federal law, an employer may defend against sexual harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer.

Pursuant to Government Code 12950.1, as amended by SB 778 (Ch. 215, Statutes of 2019), employers with five or more employees are required to provide sexual harassment training to supervisory and nonsupervisory employees. See the accompanying administrative regulation for timelines and training requirements.

Items #1-4 below reflect the courts' guidance and Government Code 12950.1, and should be modified to reflect district practice.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to employees and others to whom the policy may apply

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

3. Ensuring prompt, thorough, ~~and~~ 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

Note: The following optional paragraph reflects a recommendation of the U.S. Equal Employment Opportunity Commission's informal guidance Promising Practices for Preventing Harassment and may be revised to reflect district practice.

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on

systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training.

Sexual Harassment Reports and Complaints

Note: 34 CFR 106.8, as amended by 85 Fed. Reg. 30026, requires the district to designate at least one employee to coordinate its responsibilities under Title IX, who must be referred to as the Title IX Coordinator. See the accompanying administrative regulation.

34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not unreasonable in light of the known circumstances and in compliance with Title IX regulations. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. For this reason, the district should train all employees regarding the reporting process.

In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

District employees who feel that they have been sexually harassed in the performance of their/his/her district responsibilities or who have/has knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to their/his/her direct supervisor, a district administrator, or another supervisor, the district's Title IX Coordinator. Employees may bypass their supervisor in filing a complaint for nondiscrimination, the Superintendent, or, if available, a complaint if the supervisor is the subject of the complaint, hotline or an ombudsman. A supervisor or administrator who receives a harassment complaint shall promptly notify the Title IX Coordinator.

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures or procedure specified in AR 4030 - Nondiscrimination in Employment, as applicable. Because an employee may bypass his/her supervisor in filing a complaint or allegation that is dismissed or denied under where the supervisor is the Title IX subject of the complaint.

All procedure may still be subject to consideration under state law, the Title IX Coordinator complaints and allegations of sexual harassment shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets be kept confidential to the requirements of AR 4030, extent necessary to carry out the investigation or to take other subsequent necessary actions. (2 CCR 11023)

(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)

The Title IX Coordinator shall offer supportive measures to the complainant and respondent, as deemed appropriate under the circumstances.

Note: In addition to district discipline imposed on employees who engage in sexual harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).

Upon investigation of a sexual harassment complaint, any district employee found to have engaged or participated in sexual harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Reports)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act, especially:*

12940 *Prohibited discrimination*

12950 *Sexual harassment; distribution of information*

12950.1 *Sexual harassment training*

LABOR CODE

1101 *Political activities of employees*

1102.1 *Discrimination: sexual orientation*

CODE OF REGULATIONS, TITLE 2

11009 *Employment discrimination*

11021 *Retaliation*

11023 *Harassment and discrimination prevention and correction*

11024 *Sexual harassment training and education*

11034 *Terms, conditions, and privileges of employment*

CODE OF REGULATIONS, TITLE 5

4900-4965 *Nondiscrimination in elementary and secondary education programs*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 42

2000e-2000e-17 *Title VII, Civil Rights Act of 1964, as amended*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.9 *Nondiscrimination on the basis of sex in education programs or activities*

106.51-106.82 ~~64~~ *Nondiscrimination on the basis of sex in employment in education programs or activities*

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Promising Practices for Preventing Harassment, November 2017

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr/index.html>

Policy RESCUE UNION SCHOOL DISTRICT
adopted: October 10, 2017 Rescue, California
revised: April 10, 2018
Considered: April 5, 2022

Rescue Union ESD

Administrative Regulation

Sexual Harassment

AR 4119.11
4219.11
4319.11

Personnel

Note: The following administrative regulation is mandated pursuant to Education Code 231.5 and includes reasonable steps for preventing the occurrence of discrimination and harassment as required pursuant to Government Code 12940 (California Fair Employment and Housing Act). The focus of this administrative regulation is on sexual harassment by and of employees. Pursuant to Government Code 12940 and 2 CCR 11009, interns, volunteers, and job applicants are entitled to the same protection against sexual harassment as applicable to employees.

For information related to sexual harassment involving students, see BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

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

Definitions

Note: Alleged conduct that meets the federal definition of sexual harassment in 34 CFR 106.30, as added by 85 Fed. Reg. 30026, requires investigation and resolution through Title IX regulations; see AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Pursuant to 34 CFR 106.30, sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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 the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291)

Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. Conduct that does not meet the definition of sexual harassment in 34 CFR 106.30 shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment.

In *Oncale v. Sundowner Offshore Services, Inc.*, the U.S. Supreme Court held that same-sex sexual harassment could be actionable under Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17).

~~Sexual/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, 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

sex in the work or educational setting under any of the following conditions~~when~~: (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.
43. 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 district.

Prohibited *(cf. 4030 - Nondiscrimination in Employment)*

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~~also includes~~ conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome, ~~regardless of whether or not it is motivated by~~ sexual conduct
2. Unwelcome conduct determined by a reasonable person to be ~~desire, is~~ so severe, ~~or~~ pervasive, and objectively ~~as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive~~ that it effectively denies a person equal access to the district's education program or activity ~~work environment.~~
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

(cf. 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaints)

Examples of Sexual Harassment

Note: Pursuant to Government Code 12940, the district may be held liable for sexual harassment committed against employees by clients, customers, or other third parties if the district knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that sexual harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.

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, a co-worker, or a non-employee, 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

Training

~~The Superintendent or designee shall ensure that supervisory employees receive training regarding the district's sexual harassment policies when hired and periodically thereafter. The training shall include how to recognize prohibited or harassing conduct, the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the district's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee. The training shall also include information about processes for employees to informally share or obtain information about harassment without filing a complaint.~~

~~(cf. 1312.3—Uniform Complaint Procedures)~~

~~(cf. Title IX Coordinator/Compliance Officer)~~

Note: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX of the Education Amendments of 1972 and its implementing regulations. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the coordinator for nondiscrimination in employment pursuant to AR 4030 - Nondiscrimination in Employment. Districts may modify this policy to designate separate district employees to serve these functions.

~~The district designates the following individual(s) as the responsible employee(s) 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(s) may be contacted at:~~

(title or position)

(address)

(telephone number)

(email)

Superintendent
2390 Bass Lake Road,
Rescue, CA 95672
530-677-4461
jshoemake@rescueusd.org

4030—Nondiscrimination in Employment)
(cf. 5145.7—Sexual Harassment)

Training

Note: Government Code 12950.1, as amended by SB 778 (Ch. 215, Statutes of 2019), requires districts with five or more employees to provide sexual harassment training and education to supervisory and nonsupervisory employees by January 1, 2021 (or two years after a training provided in 2019) and once every two years thereafter. As amended, Government Code 12950.1 requires that new nonsupervisory employees be provided the training within six months of hire, consistent with the requirement for all newly hired supervisors or employees promoted to a supervisory position. Compliance with this law does not insulate the district from any liability for harassment.

Governing Board members, as elected officials, are not usually considered "supervisors"; however, since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive sexual harassment training. Districts should consult with legal counsel to ensure that the appropriate individuals receive 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 ~~such~~ newly hired employees and employees~~or~~ promoted to a supervisory position~~employees~~ 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 district, 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)

(cf. 4300 - Administrative and Supervisory Personnel)

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 district's sexual harassment training and education program ~~for supervisory employees shall be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior.~~ The training 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, ~~the remedies available to sexual harassment victims in civil actions, and potential district and/or individual exposure or liability~~
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~~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
3. ~~A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment~~
4. ~~Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint~~
5. ~~The essential elements of the district's anti-harassment policy, including the~~
7. The limited confidentiality of the complaint process
8. Resources~~and resources~~ for victims of unlawful ~~sexual~~ harassment, such as to whom they should report any alleged ~~sexual~~ harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district'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 district's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a~~6.A~~ copy of the district's sexual harassment policy and administrative ~~regulations~~regulation, which ~~they each participant~~ shall read and acknowledge ~~in writing that they have~~he/she has received.

12. Information, including practical

~~7. The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance~~

~~8. 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

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 that the district 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 district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)

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

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

A copy of the Board policy and this administrative regulation shall: ~~(Education Code 231.5)~~

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

2. Be provided to every district 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)

~~(cf. 4112.9/4212.9/4312.9—Employee Notifications)~~

3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site (34 CFR 106.8)
5. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations (34 CFR 106.8)

Note: Government Code 12950 requires the Department of Fair Employment and Housing (DFEH) to develop an information sheet on employment discrimination and the illegality of sexual harassment and a poster regarding the rights of transgender employees. These documents are available on DFEH's web site.

All employees shall receive a copy of an information sheet prepared by the California Department of Fair Employment and Housing (DFEH) or the district 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. The district'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 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 DFEH and the EEOC

In addition, the district 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)

Complaint Procedures

All complaints and allegations of sexual harassment by and against employees shall be investigated and resolved in accordance with law and district 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 Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, and address any continuing effects.

(3/18 7/20) 10/20

Regulation RESCUE UNION SCHOOL DISTRICT
approved: August 16, 2016 Rescue, California
revised: October 10, 2017
revised: April 10, 2018
Considered: April 5, 2022

CSBA Sample Administrative Regulation

All Personnel

AR 4119.12(a)

4219.12

TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

4319.12

Note: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.

The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual'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 the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment in employment that does not meet this definition should be addressed through the district's complaint procedures described in AR 4030 - Nondiscrimination in Employment.

34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.

Also see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sexual harassment.

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee, while in an education program or activity in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a person'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 the district's education program or activity

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

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.

(cf. 4030 - Nondiscrimination in Employment)

Because the complainant has a right to pursue a complaint under AR 4030 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4030 are concurrently met while implementing the Title IX procedure.

Reporting Allegations/Filing a Formal Complaint

Note: Pursuant to 34 CFR 106.30, the timeline for resolving a sexual harassment complaint begins when the district has actual knowledge of sexual harassment, defined as the receipt of a report by the Title IX Coordinator or other employee of an elementary or secondary school. The following paragraph reflects the requirement for any employee to forward the report to the Title IX Coordinator as stated in AR 4119.11/4219.11/4319.11 - Sexual Harassment and may be revised to reflect district practice.

An employee who is the alleged victim of sexual harassment may submit a report of sexual harassment to the district's Title IX Coordinator using the contact information listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment or to the employee's direct supervisor or other district administrator, who shall forward the report to the Title IX Coordinator within one day of receiving the report.

Upon receiving such a report, the Title IX Coordinator shall inform the complainant of the right to file a formal complaint and the process for filing a formal complaint.

A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the district. (34 CFR 106.30)

Note: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the Title IX Coordinator and the alleged victim are not named parties to the case, but the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.

Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX

Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.

The Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)

Supportive Measures

Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures and shall consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures shall be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and not unreasonably burden the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines, modifications of work schedules, mutual restrictions on contact, changes in work locations, leaves of absence, increased security, and monitoring of certain areas of the campus. (34 CFR 106.30, 106.44)

The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)

Emergency Removal

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. Districts should also note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but requires that a student should not be "disciplined" prior to a finding being made pursuant to the grievance process established by 34 CFR 106.45. Due to this inconsistency in state and federal law, districts are advised to consult legal counsel as to the manner of imposing an emergency removal.

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and

provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

Dismissal of Complaint

The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to AR 4030 - Nondiscrimination in Employment as applicable.

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process

Written Notice

If a formal complaint is filed, the Title IX Coordinator shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. The allegations potentially constituting sexual harassment with sufficient details known at the time, including the identity of parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process
4. The opportunity for the parties to have an advisor of their choice who may be, but is not required to be, an attorney, and the ability to inspect and review evidence
5. The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process

Note: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and decision-maker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice shall also include the name of the investigator, facilitator of an informal process, and decision-maker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.

Investigation Procedures

Note: Pursuant to 34 CFR 106.45, when investigating a formal complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party.

34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney
4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate
6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. (34 CFR 106.45)

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

Note: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult legal counsel.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

Written Decision

Note: Pursuant to 34 CFR 106.45, the person designated as the decision-maker of the determination of responsibility cannot be the same person designated as the Title IX Coordinator, an investigator, or the person who considers appeals. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the decision-maker and designate the Superintendent as the person to consider appeals.

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator or a person involved in the investigation of the matter. (34 CFR 106.45)

After the investigative report has been sent to the parties but before reaching a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party

The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)

Note: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. Districts may revise the following paragraph to include a different timeline as long as it would satisfy the requirement to act promptly.

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

Note: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the district's code of conduct or policies to the facts
5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant
6. The district's procedures and permissible bases for the complainant and respondent to appeal

Appeals

Note: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.

The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

4. Issue a written decision describing the result of the appeal and the rationale for the result
5. Provide the written decision simultaneously to both parties

An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

Remedies

Note: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.

When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent. (34 CFR 106.45)

Disciplinary Actions

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44)

When an employee is found to have committed sexual harassment or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Record-Keeping

The Superintendent or designee shall maintain, for a period of seven years: (34 CFR 106.45)

1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.
2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.
3. All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process. The district shall make such training materials publicly available on its web site, or if the district does not maintain a web site, available upon request by members of the public.

(cf. 1113 - District and School Web Sites)

(cf. 3580 - District Records)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

48900 *Grounds for suspension or expulsion*

48900.2 *Additional grounds for suspension or expulsion; sexual harassment*

48985 *Notices, report, statements and records in primary language*

CIVIL CODE

51.9 *Liability for sexual harassment; business, service and professional relationships*

1714.1 *Liability of parents/guardians for willful misconduct of minor*

GOVERNMENT CODE

12950.1 *Sexual harassment training*

CODE OF REGULATIONS, TITLE 5

4600-4670 *Uniform complaint procedures*

4900-4965 *Nondiscrimination in elementary and secondary education programs*

UNITED STATES CODE, TITLE 20

1092 *Definition of sexual assault*

1221 *Application of laws*

1232g *Family Educational Rights and Privacy Act*

1681-1688 *Title IX of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 34

12291 *Definition of dating violence, domestic violence, and stalking*

UNITED STATES CODE, TITLE 42

1983 *Civil action for deprivation of rights*

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*

2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.82 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2000, 9th Cir.) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

(7/20) 10/20

Considered: April 5, 2022

CSBA Sample

Exhibit

All Personnel

E 4119.12(a)

4219.12

TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

4319.12

Note: 34 CFR 106.8 requires the district to provide notice to employees, bargaining units, and job applicants of its policy prohibiting sexual harassment and its grievance procedures that provide for the prompt and equitable resolution of sexual harassment complaints. The following exhibit presents a sample notification that meets these requirements and may be modified to reflect district practice. For a sample notice for students and parents/guardians, see E 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Pursuant to 34 CFR 106.8, the district must provide the Title IX Coordinator's contact information on its web site and in any employee handbook. In addition, state law (Education Code 231.5) requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, displayed in district and school offices, and included in any publication that sets forth standards of employee conduct.

NOTICE OF TITLE IX SEXUAL HARASSMENT POLICY

The Code of Federal Regulations, Title 34, Section 106.8 requires the district to issue the following notification to employees, job applicants, and employee organizations:

The district does not discriminate on the basis of sex in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The district also prohibits retaliation against any employee for filing a complaint or exercising any right granted under Title IX.

Title IX requires a school district to take immediate and appropriate action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the district's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

Note: The district should enter the name/title and contact information of the district's Title IX Coordinator below. Such information should be consistent with the person/position identified in AR 5145.7 - Sexual Harassment.

The district has designated and authorized the following employee as the district's Title IX Coordinator, to address concerns or inquiries regarding discrimination on the basis of sex, including sexual harassment, sexual assault, dating violence, domestic violence, and stalking:

Superintendent
Jim Shoemake
2390 Bass Lake Road
Rescue, CA 95672
530-677-4461
jshoemake@rescueusd.org

Note: The district may expand the following paragraph to include other means of contact or reporting methods available in the district, such as online submission forms or mobile applications.

Pursuant to 34 CFR 106.8, the district must provide notice to employees, bargaining units, and job applicants of the district's grievance procedures, and process, including how to report or file a formal complaint of sexual discrimination and/or harassment, and how the district will respond.

Any individual may report sex discrimination, including sexual harassment, to the Title IX Coordinator or any other school employee at any time, including during non-business hours, by mail, phone, or email. During district business hours, reports may also be made in person. Upon receiving an allegation of sexual harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable district complaint procedure.

To view an electronic copy of the district's policies and administrative regulations on sexual harassment, including the grievance process that complies with 34 CFR 106.45, please see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment and AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures on the district's web site at www.rescueusd.org

To inspect or obtain a copy of the district's sexual harassment policies and administrative regulations, please contact:

Karen Schudy
2390 Bass Lake Road
Rescue CA, 95672
530-672-4816
kschudy@rescueusd.org

Materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person who facilitates an informal resolution process are also publicly available on the district's web site or at the district office upon request.

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: 2022 Board Meeting Calendar Revision

RECOMMENDATION:

The Superintendent is recommending the Board of Trustees revise the Regular Board meeting currently scheduled for November 8, 2022 to accommodate the request from the El Dorado County Elections Department to use our Boardroom as a Vote Center for the upcoming election cycle. The recommendation would be to move the meeting to November 15, 2022.

BACKGROUND:

The El Dorado County Elections Department uses specific criteria to determine Vote Center locations. Potential locations are reviewed and public meetings are conducted to discuss the locations. Rescue Union SD has provided facilities for the elections department for many years; however, with the change to Vote Centers, the number of days needed for facility use has increased.

STATUS:

The El Dorado County Elections Department has requested the use of our Boardroom as a Vote Center Facility for both the June Primary and November General Elections. The dates requested for both elections: June 2nd through June 9th and November 3rd through November 10th

A Vote Center is essentially an extension of the Elections office and you can go to any Vote Center in the county and can be open for up to 11 days in a row. At every Vote Center you can:

- Vote
- Check the status of registration
- Conditionally Register to Vote the same day
- Drop off your ballot
- Vote with an accessible voting machine
- Get assistance and voting materials in multiple languages

FISCAL IMPACT:

Fiscal impact will be reflected in the 2021-2022 and 2022-2023 budget years.

BOARD GOAL:

Board Focus Goal III – COMMUNICATION/COMMUNITY INVOLVEMENT:

Establish and maintain consistent and effective communication that is transparent and timely in an effort to provide and receive information that will engage and educate our District and community.



RESCUE UNION SCHOOL DISTRICT

"Educating for the Future, Together"

Holiday
Board Meeting
Board Study Session
Special Board Meeting

2022 Board Meeting Calendar Board Approved: 12-14-21 Considered Revision 4-5-22

Regular Meeting: 5:30 p.m. Closed Session; 6:30 p.m. Open Session ~ Study Session 5:30 p.m.

JAN				
M	T	W	T	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28
31				

FEB				
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28				

MAR				
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16	17	18	19	20
23	24	25	26	27
30	31			

Jan 12 - Board Items Due
 1 *New Year's Day*
 3 *Winter Break Ends*
 17 *Martin Luther King Jr. Day*

Jan 27- Board Items Due
 14 *Lincoln's Day (observed)*
 21 *President's Day (Washington's Day)*

Feb 24- Board Items Due

Mar 24 - Board Items Due
 11 *Spring Break Begins*
 18 *Spring Break Ends*

Apr 28 - Board Items Due
 30 *Memorial Day (observed)*

JUN				
M	T	W	T	F
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27	28	29	30	

JULY				
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AUG				
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1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31		

SEPT				
M	T	W	T	F
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

OCT				
M	T	W	T	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28
31				

Jun 2 - Board Items Due
Jun 16 - Board Items Due

Board Meeting Date
TBA, as Needed
 4 *Independence Day*

July 28 - Board Items Due

Aug 31 - Board Items Due
 5 *Labor Day*

Sept 29- Board Items Due

NOV				
M	T	W	T	F
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30		

DEC				
M	T	W	T	F
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

Nov 2 - Board Items Due
 11 *Veterans Day*
 21-25 *Thanksgiving Break*

Dec 1 - Board Items Due
 19-30 *Winter Break*

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: 2022 RUSD Expanded Learning Opportunities Program: RISE

RECOMMENDATION:

The Superintendent is recommending that the Board of Trustees receive a report on the 2022 Expanded Learning Opportunities Program (ELO-P).

BACKGROUND:

The mission and vision of the ELO-P RISE Program is to ensure all students are ready and equipped with the knowledge base required to be successful in the next grade level, show improvement in essential concepts and skills from the first day of the program when compared to their last, and feel daily success at school. During the summer of 2022, all district students will be invited to attend our four-week summer RISE program. The program will provide four hours of instruction and outdoor activities coupled with an opportunity for all attending students to extend the learning day through an extended day program for an additional five hours. Students may be provided with free transportation to the program, along with being given a nutritious lunch and snacks. Students will receive a rich curriculum of math, language arts, physical education and a S.T.E.A.M project based component. Classroom teachers will be qualified and credentialed and also provide socio-emotional lessons to all students

STATUS:

Students in the RISE program will be taught using an alternate curriculum, Focused Reading and Math Intervention and S.T.E.A.M Teacher Created Materials (TCM). TCM curriculum is research-based and is specifically designed to address key reading, literacy, math and S.T.E.A.M skills. The reading and math components focus on accelerating growth for all students who may have experienced any unfinished learning that may have been caused by the COVID Pandemic. The S.T.E.A.M component of the curriculum was created in collaboration with the Smithsonian Institution, this dynamic series engages students with high-interest readers that highlight all aspects of S.T.E.A.M: science, technology, engineering, the arts, and mathematics. Through hands-on S.T.E.A.M activities, students will learn how the engineering design process is used to solve real-world problems. Students will also have daily physical education class from a highly qualified and credentialed teacher.

The 2022 Expanded Learning Opportunities RISE Program is proud of its partnership with the Charter Extended Day El Dorado County Program (CED). The CED program will partner with RUSD to provide an expanded learning day opportunity for all students who attend the RISE program. Students will have the opportunity to remain at Lake Forest Elementary after the program's end time of 12:30 and remain at CED until their parent arrives. Additionally, RUSD is partnering with the Lawrence Hall of Science to provide a "field trip" opportunity at Lake Forest that is S.T.E.A.M focused.

RUSD will utilize a data-driven continuous quality improvement process that will involve a cycle of assessment, planning, and improvement. To begin, assessment will be in the form of school-day attendance and overall program attendance coupled with a formal pre and post assessment that will be given to all students in the program in the area of English language arts and math. This pre/post assessment will be part of the TCM curriculum suite, which is specifically designed for short-term expanded learning opportunities. The RISE Expanded Learning Opportunity Program is created using a multi-step planning process. The planning process begins with gathering input from multiple RUSD team members in various departments, such as food services, transportation, instruction, leadership and finance. Input is also gathered from community members, such as the District English Learner Advisory Committee. Once input is gathered, the program will be designed and finalized to meet the essential academic and socio-emotional needs as defined by the overall RUSD community. Finally, each year the RISE Expanded Learning Opportunity Program will be analyzed for efficacy and

refinements and adjustments to the structure and content of the program will be made as part of a continuous improvement cycle. This evaluation process will include RISE teachers, students and classified employee feedback surveys.

FISCAL IMPACT:

The funds that will be used for the ELO-P RISE program will come from the State Expanded Learning Opportunity Program and are included in the 2022 estimated actuals presented to the board. These funds equate to approximately \$314,000.

BOARD GOALS:

Board Focus Goal I - STUDENT NEEDS

- A. Student Safety and Well Being: Enhance and encourage social, emotional, ethical and civic learning by providing a safe, supportive and diverse environment.
- B. Curriculum and Instruction: Provide a meaningful, innovative learning environment using Common Core, and other student content standards and research-based, progressive, effective instructional methodology, instructional materials, staff development and technology that will ensure student success in career and college.

Board Focus Goal IV - STAFF NEEDS

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to provide quality education for our students.

Board Focus Goal VI – CULTURE OF EXCELLENCE

Create and promote programs that support, reward and incentivize employees to perform at exceptional levels for the benefit of our students.

Rescue Union School District Expanded Learning Opportunities Program

EC Section 46120(b)(2)



Amy Bohren/Director of Special Programs



RUSD ELO-P Plan 2022

01

What is ELO-P?

02

RUSD Basic Program Components

03

Exciting Details

What is ELO-P?

- Expanded Learning Opportunity Program (ELO-P) provides funding for afterschool and summer school enrichment program for TK-6th Grade
- Pupil-centered, results driven, includes community partners, and complement, but do not replicate, learning activities in the regular school day and school year.

RUSD's Program Components

- Safe & Supportive 4 week program @ 4 hours a day-Lake Forest Elementary
- Free brunch and transportation
- Extended Day Offered
- STEAM, Physical Education, Math & ELA fundamentals

Exciting Details

- Youth Voice: 5th grade leadership team
- Access: all RUSD students invited
- Priority registration given to unduplicated youth
- Collaborative partnership with Extended Day