



HUMAN RESOURCE SERVICES
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To: All Employees

From: Ruth Perez Ashley
Assistant Superintendent

Subject: Required Notices and Board Policies
Child Abuse Reporting Requirements
Prohibition of Sexual Harassment
Nondiscrimination and Employee Privacy
Drug-Free Workplace
Tobacco-Free Workplace
Oath of Allegiance for Public Employees or Officers
Internet and Electronic Mail Guidelines

Child Abuse Reporting Requirements

Effective January 1, 1985, all school employees must acknowledge that they are aware of the provisions of Section 11166 of the California Penal Code. This section requires:

Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensed day care workers; administrators of community care facilities licensed to care for children; head start teachers; licensed workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists or any other person who is licensed under Division 2 (commencing with section 500) of the Business and Professions Code.

"Nonmedical practitioner" includes state or county public health employees who treat minors for venereal disease or any other conditions; coroners; paramedics; marriage,

family or child counselors; and religious practitioners who diagnose, examine or treat children.

Section 11172 (b) of the California Penal Code requires:

Any person who fails to report an instance of child abuse which he or she knows exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1000) or by both.

It is the responsibility of the employee to report suspected or actual child abuse in accordance with district procedures designed to facilitate the reporting process developed in the Long Beach Unified School District. These procedures are outlined in the Deputy Superintendent's bulletin "Reporting Suspected Child Abuse" dated September 1997. Employees should contact their immediate supervisor for further information.

Reporting Suspected Child Abuse

Under California law, all school employees are responsible for reporting suspected child abuse to proper authorities immediately by telephone and with an on-line or written follow-up report. The duty to report child abuse is an individual one; however, a single report may be made if two or more school employees have knowledge of the same suspected abuse (PC 11166[g]). School administrators may neither impede nor inhibit the reporting process in any way (PC 11166[h]).

The following are procedures for reporting suspected child abuse by all schools and employees in the school district. Current legislation permits employees to withhold their identity from the school district when reporting suspected child abuse. However, employees should understand that the law does not permit completely anonymous reports. Employees are still required to disclose their identity to investigative agencies when reporting suspected child abuse and will be contacted by agency personnel during the resulting investigation.

Site administrators should take appropriate steps to apprise all school staff of their legal responsibility to report suspected child abuse and of these reporting procedures.

A. Reporting Procedure

1. All cases of suspected child abuse should be reported immediately upon discovery to the L.A. County Child Abuse Hot Line at (800) 540-4000 and to one of the following law enforcement agencies dependent upon the location where the suspected child abuse occurred.

If the child is in *imminent* danger, call 911 immediately.

Long Beach Police Department	(562) 570-7321
Lakewood Sheriff's Station	(562) 866-9061
Avalon Sheriff's Station	(310) 510-0174
CSU Dominguez Hills	(310) 243-3639
Orange County Sheriff's Office	(714) 647-7000
Signal Hill Police Department	(562) 989-7200

2 School District mandated reporters may file the Department of Justice form, **“Suspected Child Abuse Report”** (PC11166, rev. 1/93), on-line or by mail.

- a. **To report on-line:** Access the DCFS website at <http://dcfs.co.la.ca.us/index.html>. Click on **“For Mandated Reporters Only”** and follow the instructions on the website. Prior to using the on-line system, reporters must call the hotline at **(800) 540-4000** to obtain a 19-digit referral number to complete the “Suspected Child Abuse Report” form.
- b. **To send by mail:** Complete form and send to L.A. County Department of Children and Family Services within 36 hours of the telephone report. Complete as much of the form as possible from knowledge of the incident and school records. **To request blank forms, call (800) 540-4000.**

Section B of the form, Reporting Party, should include the name, title and work location (school name) of the school employee submitting the report. The address (including zip code) and telephone number should be those of the school, NOT the home address and telephone number of the reporting party.

Section C of the form, Report Sent To, should contain the information obtained from the Intake Worker at the Child Abuse Hotline or law enforcement contact.

Section D of the form, Parents, should include the full name of both parents. DCFS files child abuse cases under the mother's name or the father's name if no mother is in the home. Also, indicate the language spoken in the home if other than English. This notation should be written above the line provided for the names of the parents.

Section E of the form, Incident Information, Item 4 should be the child's version of what happened.

3. When you submit the Suspected Child Abuse Report to L.A. County Department of Children and Family Services (DCFS) or law enforcement contact, the yellow copy should be removed and kept by the reporting person. Although there is no obligation to do so, the reporting party should retain the copy of the Child Abuse Report in a personal file for at least twelve (12) months in case the reporting party is subpoenaed to testify in a subsequent court action concerning the incident. The copy of the report would be useful in recalling specific details of the incident.
4. Send a photocopy of the completed child abuse report to the Chief of School Safety and Emergency Preparedness with your name and other identifying information in Part B of the form blocked out or otherwise obliterated.
5. At the top of the photocopy you are sending to the Chief of School Safety and Emergency Preparedness, indicate HIGH SCHOOL, MIDDLE SCHOOL, ELEMENTARY, HEAD START, CDC, etc.

B. Interview of Child Abuse Victims at School

1. California law permits representatives of child protective agencies (Police, Sheriffs, and Children's Services) to interview victims of child abuse during school hours on school premises. Legislation enacted in 1987 now authorizes a child who is to be interviewed at school to select an adult who is a member of the school staff to be present at the interview. However, the staff member may not participate in the interview nor may the staff member discuss the facts or circumstances of the case with the child or anyone else. The sole purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible.
2. The law further provides that all such interviews involving a school staff member shall be held at a time during school hours when it does not involve an expense to the school. Therefore, requests for the presence of staff members at child abuse interviews that would disrupt classroom instruction and necessitate special arrangement to cover classes or other school activities may be refused by the principal.
3. When a request is made for the presence of a staff member at a child abuse interview, the principal or designee shall inform the staff member so selected of the purpose of his/her presence in the interview and of the confidentiality requirements. The principal shall also inform the staff member that he/she has the legal right to decline to be present at the interview.
4. When the child is to be removed from school and taken into custody by the Child Protective Service representative, the principal or designee must be informed. The representative must leave his/her name and phone number where he/she may be reached and where the child is being taken. The school official shall provide the representative with the name, address, and phone number of the pupil's parents or guardian. Parent notification is the responsibility of the CPS representative.

C. Obtaining Assistance from School Safety Division

School Safety personnel (562) 997-8205 or ext. 8205, are available to advise and assist with any questions or concerns the reporting party may have before or after filing the report with the L.A. County Department of Children and Family Services (DCFS). Questions may also be directed to the Child Abuse Hot Line by calling (800) 540-4000.

D. General Information About Child Abuse and Mandated Reporting

1. Any mandated reporter who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars or both. Failure to report may also result in civil liability if there is subsequent injury to the child. (PC 11172[e])

2. School personnel are not liable either in civil damages or for criminal prosecution for reporting suspected child abuse as required by law. (PC 11166)
3. Investigation of suspected child abuse is not the responsibility of school personnel. The responsibilities of school personnel are: (1) to identify incidents of suspected child abuse, and (2) to report the suspected abuse to proper authorities. (PC 11166)
4. The law provides that the identity of persons who report suspected child abuse shall be confidential and disclosed only by court order. Violations of this provision of the law by investigating agencies should be reported to the School Safety Division for immediate follow up. (PC 11167.5)
5. Not every school report of suspected child abuse will result in a face-to-face investigation by a child protective agency. All such reports are assessed on the basis of endangerment to the child. If the risk of further harm to the child is considered to be low, it is likely that the investigative agency may not intervene. Non-intervention by the agency, however, does not relieve school personnel of the responsibility to submit both telephone and written reports of the suspected abuse.
6. Current legislation requires school employees to report known or suspected instances of physical or sexual abuse of young adults, ages 18-22, enrolled in special education programs. The law is permissive as far as reporting other types of abuse inflicted upon dependent adults.
7. Information revealed by a pupil during a counseling session that leads a counselor to suspect child abuse must be reported to the proper authorities. Such information does not qualify for the pupil/counselor confidentiality privilege under Education Code Section 49602.
8. Not only are staff permitted, but they are required to maintain a safe environment for students. Reasonably restraining a child in order to protect oneself, the child, other children, and staff or property is not child abuse. Recent legislation indicates that child abuse does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil. (PC 11165.4)
9. Child abuse is defined by law as any act of omission or commission that endangers or impairs a child's physical or emotional health and development. This includes the following:
 - a. *Physical injury* which is inflicted by another means on a child by another person. (A child is defined as a person under 18 years of age.) (PC 11165.6)

- b. *Sexual assault* committed on a child by any person. This includes rape, incest, sodomy, lewd or lascivious acts upon a child under 14 years of age, oral copulation, penetration of a genital or anal opening by a foreign object and child molestation. (PC 11165.1)

A state court of appeal has ruled that minors under the age of 14 who engage in voluntary sexual activity together are not child abuse victims and should not be reported as such. However, school employees would be well advised to share with parents information that may come to them concerning the sexual activities of children under the age of 14.

- c. *Severe neglect* which is negligent failure of any child care custodian to protect the child from severe malnutrition or medically diagnosed failure to thrive. (PC 11165.2[a])
- d. *General neglect* which is negligent failure of any childcare custodian to provide adequate food, clothing, shelter, supervision or medical care. (PC 11165.2[b])
- e. *Unlawful corporal punishment*, a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. (PC 11165.4)
- f. *Willful cruelty*, a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering or permits the health of a child to be endangered. (PC 11165.3)

Sexual Harassment

The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process, established pursuant to this policy and the administrative regulation.

The Long Beach Unified School District will not tolerate or condone any type of harassment. It is the policy of the District to provide a workplace and working environment in which harassment based on sex, race, color, national origin, disability, religion, age, sexual orientation, marital status, or any other legally protected characteristic, is not permitted. It shall be the responsibility of each administrator, line manager or office supervisor to ensure the work environment is free of harassment and that all employees are aware of the Board Policy and Administrative Regulations regarding harassment. Violations of this harassment policy may result in disciplinary action up to and including termination.

According to Equal Employment Opportunity Commission guidelines, sexual harassment is an act of discrimination on the basis of sex within the meaning of Title VII of the Civil Rights Act of 1964, as amended. Sexual harassment is similarly construed within the meaning of Title IX of the Education Amendments pertaining to academic life. In accordance with Title VII and Title IX, the District defines sexual harassment including same-sex harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status, (2) submission to, or rejection of, such conduct by an individual is used as the basis for an employment decision or academic decision affecting that person, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

Employees who permit or engage in such harassment may be subject to disciplinary action up to and including dismissal.

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 all staff regarding the district's sexual harassment policy in accordance with law and administrative regulation, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.
2. Publicizing and disseminating the district's sexual harassment policy to staff.
3. Ensuring the prompt, thorough and fair investigation of complaints.

4. Taking timely and appropriate corrective/remedial actions. This may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take subsequent necessary action. (5 CCR 4964)

Any district employee or job applicant who feels that he/she has been sexually harassed, or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

Any district employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a district employee, job applicant or student, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

Legal References:

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

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

7288.0 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 42

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

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

2000h-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

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
Juarez v. Ameritech Mobile Systems, (N.D. Ill.) 746 F.Supp. 798
Dornhecker v. Malibu Grand Prix Corp., (5th Cir. 1987) 828 F.2d. 307
Meritor Savings Bank, FSB v. Vinson et. al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
Protecting Students from Harassment and Hate Crimes, January 1999

WEBSITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>
Equal Opportunity Commission: <http://www.eeoc.gov>
U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

Adopted: April 18, 1998

Revised: February 22, 1993
May 6, 1997
October 7, 1997
June 5, 2001
January 3, 2006

Sexual Harassment

Prohibited sexual harassment includes, but is not limited to, unwelcome advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the educational setting, when: (Education Code 212.5; 5 CCR 4916)

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

Types of conduct which are prohibited in the District and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way

9. Purposefully cornering or blocking normal movements
10. Displaying sexually suggestive objects

Notifications

A copy of the District's sexual harassment policy and regulation shall:

1. Be displayed in a prominent location in the main administration building or other area of the school where notices of district rules, regulations, procedures and standards of conduct are posted
2. Be provided to each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or whenever a new employee is hired
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

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, 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. The protection against retaliation provided by 2 CCR 7287.8 for opposing harassment prohibited by law or filing a complaint with, or otherwise participating in an investigation, proceeding or hearing conducted by DFEH and the EEOC

Effective: January 3, 2006

Sexual Harassment

The Governing Board is committed to maintaining an educational environment that is free from harassment. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same gender
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the person(s) to whom a report of sexual harassment should be made

Complaint Process

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal or any other district employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the Title IX Nondiscrimination Coordinator or the Superintendent or designee.

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the principal or designee finds that sexual harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where required.

Disciplinary Matters

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in its schools.

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

Legal References:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex
 48900.2 Additional grounds for suspension or expulsion; sexual harassment
 48904 Liability of parent/guardian for willful student misconduct
 48980 Notice of beginning of term

CIVIL CODE

51.9 Liability for sexual harassment; business, service and professional relationships
 1714.1 Liability of parents/guardians for willful misconduct of minor

CODE OF REGULATIONS

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, Discrimination

UNITED STATES CODE, TITLE 42

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

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 Nondiscrimination on the basis of sex in education programs

COURT DECISIONS

Reese v. Jefferson School District, (2001) 208 F.3d 736
 Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
 Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989
 Nabozny v. Podlesny, (1996, 7th Cir.) 92 F.3d 446
 Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
 Oona R.-S. etc. v. Santa Rosa City Schools et al, (1995) 890 F.Supp. 1452
 Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143
 Clyde K. v. Puyallup School District, (1993) 830 F. Supp. 1288
 Franklin v. Gwinnet County Schools, (1992) 112 S. Ct. 1028
 Kelson v. City of Springfield, Oregon, (1985, 9th Cir.) 767 F.2d 651

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
GENERAL

Protecting Students from Harassment and Hate Crimes: A Guide for Schools, January 1999

OFFICE OF CIVIL RIGHTS' PUBLICATIONS

Revised Sexual Harassment Guidance, January 2001

Sexual Harassment Guidance, March 1997

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

Adopted: February 22, 1993

Revised: May 6, 1997

October 7, 1997

June 5, 2001

January 3, 2006

Sexual Harassment

Prohibited sexual harassment includes, but is not limited to, unwelcome advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the educational setting, when: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any District program or activity

Types of conduct which are prohibited in the District and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Purposefully cornering or blocking normal movements
10. Displaying sexually suggestive objects

Notifications

A copy of the District's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)
2. Be displayed in a prominent location in the main administrative building or other area where notices of District rules, regulations, procedures and standards of conduct are posted (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session (Education Code 231.5)
4. 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)
5. Be provided to employees and employee organizations

Investigation of Complaints at School (Site-Level Grievance Procedure)

1. The principal or designee shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:
 - a. The student who is complaining
 - b. The person accused of harassment
 - c. Anyone who witnessed the conduct complained of
 - d. Anyone mentioned as having related information
2. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.
3. The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:
 - a. The Superintendent or designee
 - b. The parent/guardian of the student who complained
 - c. If the alleged harasser is a student, his/her parent/guardian

- d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
 - e. Child protective agencies responsible for investigating child abuse reports
 - f. Legal counsel for the district
4. When the student who complained and the alleged harasser so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree.
5. In reaching a decision about the complaint, the principal or designee may take into account:
 - a. Statements made by the persons identified above
 - b. The details and consistency of each person's account
 - c. Evidence of how the complaining student reacted to the incident
 - d. Evidence of any past instances of harassment by the alleged harasser
 - e. Evidence of any past harassment complaints that were found to be untrue
6. To judge the severity of the harassment, the principal or designee may take into consideration:
 - a. How the misconduct affected one or more students' education
 - b. The type, frequency and duration of the misconduct
 - c. The number of persons involved
 - d. The age and gender of the person accused of harassment
 - e. The subject(s) of harassment
 - f. The place and situation where the incident occurred
 - g. Other incidents at the school, including incidents of harassment that were not related to gender
7. The principal or designee shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the student who complained and the person accused.

8. The principal or designee shall give the Superintendent or designee a written report of the complaint and investigation. If the principal or designee verifies that sexual harassment occurred, this report shall describe the actions taken to end the harassment, address the effects of the harassment on the student harassed, and prevent retaliation or further harassment.
9. Within two weeks after receiving the complaint, the principal or designee shall determine whether or not the student who complained has been further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up.

Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the District's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti.
2. Providing staff inservice and student instruction or counseling.
3. Notifying parents/guardians of the actions taken.
4. Notifying child protective services.
5. Taking appropriate disciplinary action. In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment that he/she knew was not true.

Effective: January 3, 2006

Nondiscrimination in Employment

The Governing Board prohibits unlawful discrimination against and/or harassment of district employees and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation at any district site and/or activity. The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.

Any district employee who engages or participates in unlawful discrimination, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin or application form that is used in employee recruitment. (34 CRF 100.6, 106.9)

The district's policy and administrative regulation shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

The Board designates the following position as Coordinator for Nondiscrimination in Employment:

Assistant Superintendent, Human Resource Services
1515 Hughes Way
Long Beach, California 90810
(562) 997-8000

Other remedies

An employee may, in addition to filing a discrimination complaint with the district, file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discrimination act(s), unless an exception exists pursuant to Government Code 12960. (Government Code 12960)
2. To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint 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)

Employees wishing to file complaints with the DFEH and EEOC should contact the Nondiscrimination Coordinator for more information.

Legal Reference:

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

12900-12006 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges or employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving financial assistance

UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

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

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance Information

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Dissemination of policy

COURT DECISIONS

Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694

Shepard v. Loyola Marymount (2002) 102 CalApp.4th 837

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, January, 1999

WEBSITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

DFEH: <http://www.dfeh.ca.gov>

Adopted: June 12, 1989

Revised: January 17, 2006

Nondiscrimination/Harassment.

District programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation.

The Governing Board shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

The Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:

Assistant Superintendent, Human Resource Services
1515 Hughes Way
Long Beach, California 90810
(562) 997-8000

Any student who feels that he/she is being harassed should immediately contact the principal, any other staff member at the school site or the District Coordinator for Nondiscrimination. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint.

Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator of Nondiscrimination. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5147.7 – Sexual Harassment. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex, especially:
221.5 Prohibited sex discrimination
221.7 School-sponsored athletic programs; prohibited sex discrimination

48900.3 Suspension or expulsion for act of hate or violence
48900.4 Suspension or expulsion for threats or harassment
48904 Liability of parent/guardian for willful student misconduct
48907 Student exercise of free expression
48950 Freedom of Speech
49020-49023 Athletic programs
51006-51007 Equitable access to technological education programs
51500 Prohibited instruction or activity
51501 Prohibited means of instruction
60044 Prohibited instructional materials

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

CODE OF REGULATIONS, TITLE 5

4621 District policies and procedures
4622 Notice of requirements

PENAL CODE

422.55 Interference with constitutional right or privilege

UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VII, Civil Rights Act of 1964 as amended
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3.1 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

COURT DECISIONS

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

MANAGEMENT RESOURCES:

OFFICE OF CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 FR
47, March, 1994

WEBSITES

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

CDE: <http://www.cde.ca.gov>

Adopted: September 23, 1991

Revised: January 17, 2006



OFFICE OF THE DEPUTY SUPERINTENDENT

PROTECTION FROM SEXUAL HARASSMENT AND DISCRIMINATION BASED ON GENDER

“No person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

TITLE IX OF THE DUCATIN AMENDMENTS OF 1972

STUDENT GRIEVANCE PROCEDURE

A federal law called Title IX prohibits anyone at your school from discriminating against you on the basis of your gender. Boys and girls must be treated the same in all areas, including:

- the classes they can take
- the way they are treated in the classroom
- the honors, special awards, scholarships, and graduation activities in which they can participate
- the extracurricular activities in which they can participate
- the kind of counseling they are given

In addition, the law protects you from sexual harassment. This means that no student, teacher, administrator or other school employee can make unwelcome sexual advances to you or request sexual favors from you. They cannot touch you or speak to you in a sexual manner at school or at a school-sponsored event.

If you find that any of your rights under Title IX are being violated, you can do something about it.

Informal Resolution Process

If your rights have been violated, you can try the following informal steps to try to correct the situation that is causing your concern:

Make notes...keep a record...of the persons, dates, and examples of the kinds of things said or done to which you object.

Seek support and advice from your counselor, teacher, nurse, or someone in authority with whom you feel comfortable enough to tell your concerns.

Consider your options in dealing with the situation. For example, you may want to talk to the person who is making you feel uncomfortable. You may want to write a letter to the person telling him/her what you would like him/her to stop doing or saying. You may want to ask someone you trust to help you with the situation.

Don't forget your family. You may think you can resolve the problem on your own, but remember your mother or father or guardian may be able to help.

If you find that your situation cannot be resolved by using any of the above informal methods, you may want to use the Formal Resolution Process as your next step. This process is designed to help you. No one is permitted to intimidate you or harass you for asking to use this procedure.

Formal Resolution Process

The Long Beach Unified School District has a formal complaint procedure under Title IX that involves these steps:

You have six months from the time the incident of your complaint occurred to submit a written complaint to your school principal. The principal will try to resolve your complaint by conducting an impartial investigation. The principal will provide you with a written decision regarding your complaint. If there is evidence that you have a valid complaint, the principal will need to correct the situation. If the action taken resolves your complaint, the matter will be considered closed.

If you are dissatisfied with the principal's decision, you may appeal by writing to the District Title IX Coordinator. This written appeal must be sent to the address below within 15 days of receiving the principal's decision.

The District Title IX Coordinator will review the matter and, if necessary, arrange to meet with you and with any other persons who might help resolve your complaint. After that, the District Title IX Coordinator will provide you with a written decision and the reasons for coming to that decision. This decision will be final.

Whether you try to resolve your grievance informally or formally, everything will be confidential. You do not have to be afraid of filing a complaint or trying to correct a situation.

District Title IX Coordinator:
Director, Human Resource Services
1515 Hughes Way, Long Beach, CA 90810
(562) 997-8214

Policy on Drug-Free Workplace

Pursuant to the federal Drug-Free Workplace Act of 1988, the Board of Education has adopted a policy regarding the work-related effect of drug use and the unlawful possession of controlled substances on District premises. In keeping with this policy, it is important that you understand the following points:

- Employees are expected and required to report to work on time and in appropriate mental and physical condition for work. It is the intent and obligation of the Long Beach Unified School District to provide a drug-free, healthful, safe and secure work environment.
- The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on District premises or while conducting District business off District premises is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.
- The Long Beach Unified School District recognizes drug dependency as an illness and a major health problem. The District also recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use the employee assistance program (EASE) and health insurance plans, as appropriate.
- Employees must, as a condition of employment, abide by the terms of the above points and report to the Assistant Superintendent, Human Resource Services any conviction under a criminal drug statute for violations occurring on or off District premises while conducting District business. A report of a conviction must be made within five (5) days after the conviction. Following receipt of such report, it is the responsibility of the District to notify the appropriate federal agency. These requirements are mandated by the Drug-Free Workplace Act of 1988.

Drug-Free Workplace Act of 1988

The Board of Education of the Long Beach Unified School District, pursuant to the Drug-Free Workplace Act of 1988, shall assure the maintenance of a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Long Beach Unified School District and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The Long Beach Unified School District's policy of maintaining a drug-free workplace;
 - (c) Available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the Assistant Superintendent, Human Resource Services of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
5. Notifying the appropriate federal agency within ten days after receiving notice under subparagraph 4 (b) from an employee or otherwise receiving actual notice of such conviction;
6. Taking one of the following actions, within 30 days of receiving notice under subparagraph 4 (b) with respect to any employee who is so convicted:
 - (a) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

Reference: The Drug-Free Workplace Act of 1988, Public Law 100-690, Sections 5151-5160

Tobacco-Free Workplace

As a public educational institution, the Long Beach Unified School District is charged with the care of thousands of youngsters daily, and is committed to protecting them from the harmful effects of tobacco products, and is likewise committed to modeling healthful practices for these youngsters. Further, the Board of Education affirms its commitment to providing a healthful environment for students, for employees, and for others coming onto our school sites and other work locations.

Accordingly, the use of tobacco products, whether smoking or spit products, is prohibited on school district property or in school district vehicles anywhere and anytime, effective September 1, 1994.

Individuals who violate this policy are subject to appropriate disciplinary procedures, and may also be denied future use of, or access to, district property or district vehicles.

Signs providing notification of this prohibition are to be prominently displayed at entrances to district property. The Superintendent or his/her designee is to provide a referral program for tobacco use cessation services and encourage staff and students to make use of such referrals.

Reference: California Education Code
35160
48901

California Health and Safety Code
24160 and following

Effective: April 5, 1994

District Internet and Electronic Mail Guidelines and Procedures for Represented Certificated Staff

All access to Internet sites is routed through a “technology protection measure” designed to filter out material that is in violation of the District’s Internet policies. This filter will block most objectionable material. Users should be aware that some objectionable material may be missed by the filter and users, upon discovering the presence of such material, shall report offending sites to the Technology and Information Services Branch at extension 8411. Review processes are available to block sites with objectionable material and to request the removal of blocks to sites that users believe contain material that has educational benefit. Finally, an adult filter is available if the user submits a request and receives approval from the appropriate Assistant Superintendent and the Executive Director of Information Services.

Represented certificated employees are responsible for following generally accepted social standards for use of a publicly owned and operated communication tool. Represented certificated staff will maintain high standards of ethical conduct while using the system. Examples of unethical, unacceptable use of District technology equipment include the following:

- Sending, displaying, or accessing pornographic, abusive, obscene, or other objectionable language, graphics, or other media
- Unauthorized disclosure, use, and dissemination of personal information about students or employees
- “Hacking” or otherwise engaging in unlawful activities while online
- Using obscene language
- Harassing, insulting, or attacking others
- Intentionally damaging computers, computer systems, data, files, information or computer networks
- Violating copyright laws
- Using or distributing another’s password
- Trespassing in another’s folders, work, or files
- Intentionally wasting limited resources
- Employing the network for outside business or commercial purposes
- Sending or receiving of unethical, illegal, immoral, inappropriate, or unacceptable information of any type
- Engaging in activities that cause disruption to the network or its systems
- Attempting to bypass the system security measures
- Reposting or forwarding without the permission of the sender a message sent to you privately which is of a confidential nature or one clearly designed to be read by a limited number of selected recipients
- Posting chain letters or engaging in “spamming” – i.e., sending an annoying or otherwise unnecessary message to a large number of people

The network is provided for represented certificated staff to conduct research, to communicate with others on academic topics, and to engage in legitimate District business. Individual users of the District computer networks are responsible for their behavior and communications on those

networks. Users shall comply with District standards and will abide by the policies specified herein. Violations of the District policy described may result in access privileges being suspended or revoked, as well as other disciplinary action as warranted. Any commercial, political, or unauthorized use of those materials or services, in any form, is forbidden. All copyright laws must be observed.

Members of the certificated teachers bargaining unit may engage in teacher association business on the District computer networks. Such teacher association business shall be conducted during non-duty hours which are defined in Article IV, Section C of this Agreement. Association use of District e-mails shall be limited to the following: authorized Association representatives may use District e-mails to provide notice of meetings, agendas for meetings, minutes of meetings, confirmation of a meeting with a District representative, or a limited distribution communique` between an authorized Chapter officer and a District representative; the Association will not use e-mail to denigrate the District or its personnel and will observe the prohibitions of Education Code, Section 7054.

The Long Beach Unified School District respects the privacy of all certificated teacher users. System administrators and their staff may not log on to a user's account or view a user's files without explicit permission from the user (for example, by setting file access privileges). Exceptions arise when the user's account is suspected either of disrupting or endangering the security or integrity of any network systems or services or of violations of applicable school district policies, federal or state law. Even then, the system administrator must normally obtain prior approval of the Director of Information Services unless grave danger to the continued operation of the systems requires emergency action.

This does not preclude system administrators from maintaining and monitoring system logs of user activity from within the District firewall on school district property. Moreover, automated searches for files that endanger system security or integrity are preformed regularly to protect all users. System administrators may take appropriate action in response to detection of such files (typically removal of those files and possibly suspension of the user's accounts until the matter can be resolved).

Use of the computer network may be revoked at any time for inappropriate use. The Technology and Information Services Branch, in collaboration with school administration, will be the sole determiners of what constitutes inappropriate behavior according to local, state, and federal law. The violation of any item contained in this policy may result in the loss of computer access and/or other disciplinary action, as well as possible punitive action as provided for by local, state, and federal law.

Security on any computer system is a high priority, especially any system that has many users and/or Internet access. Represented certificated staff members shall not let others use his or her account or password as he or she has a reasonable responsibility for all actions related to his or her account. Certificated staff must notify school administrators immediately if their password is lost or stolen or if they think someone has access to their account. Represented certificated employees are to use only the network directories and resources that have been assigned for their use. Unauthorized access to any other level of the system, or other system resource, is strictly prohibited. Users will make no attempt to bypass the District anti-virus software, firewall, filtering and safeguards. When finished with a computer represented certificated employees are expected to logout where appropriate.

Represented certificated employees are not allowed to install software onto the computers or the computer network without a valid purchase order or other proof of District or personal ownership. Legal software and/or data stored on local hard drives of District computers are subject to removal with prior notification and consent of the represented certificated staff member. Long Beach Unified School District shall take reasonable precautions to ensure the security, integrity, or longevity of data and/or programs stored on staff computers.

Represented certificated staff acknowledge that they share responsibility for any and all use of the District's computer network and that misuse could lead to liability and/or consequences that extend beyond the District's authority. The Long Beach Unified School District and its represented certificated staff members shall be held harmless from any use or misuse of the computer network by students. Long Beach Unified School District makes no warranty of any kind, whether expressed or implied, for the service that it is providing. Long Beach Unified School District will not be responsible for any damage users may suffer including, but not limited to, loss of data or interruptions of service as a consequence of equipment failure, either on or off District property. Long Beach Unified School District and its represented certificated employees are not responsible for the accuracy or quality of the information obtained through or stored on the system.

Reference: TALB
Appendix G

Ratified: February 4, 2003