

POLICY TITLE: Employee Sexual Harassment Policy and Procedure

POLICY PURPOSE

Title VII of the Civil Rights Act of 1964 prohibits discrimination because of a person's race, color, religion, gender, national origin, age, or disability in all employment practices, including terms, conditions, and privileges of employment. The policy of the Canyon-Owyhee School Service Agency (COSSA) is to maintain a working environment that is free from sexual harassment and sexual violence. COSSA prohibits any form of sexual harassment and sexual violence.

It shall be a violation of this policy for any employee of COSSA to be sexually violent to a student or another employee. COSSA will act to investigate all complaints, formal or informal, verbal or written, of sexual harassment or sexual violence and to discipline any employee who sexually harass or is sexually violent to a student or employee of COSSA.

According to the Equal Employment Opportunity Commission, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, including unwanted touching, verbal comments, sexual name calling, gestures, jokes, profanity, and spreading of sexual rumors.

The District shall do everything in its power to provide employees an employment environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment, as defined and otherwise prohibited by State and federal law. In addition, principals and supervisors are expected to take appropriate steps to make all employees aware of the contents of this policy. A copy of this policy will be given to all employees.

District employees shall not make sexual advances or request sexual favors or engage in any conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment prohibited by this policy includes verbal or physical conduct. The terms "intimidating", "hostile", or "offensive" include, but are not limited to, conduct which

has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all of the circumstances.

Aggrieved persons who feel comfortable doing so, should directly inform the person engaging in sexually harassing conduct or communication that such conduct or communication is offensive and must stop.

Employees who believe they may have been sexually harassed or intimidated should contact the Title IX Coordinator or an administrator, who will assist them in filing a complaint. An individual with a complaint alleging a violation of this policy shall follow the Uniform Grievance Procedure.

DEFINITION OF SEXUAL HARASSMENT/SEXUAL VIOLENCE

A. Sexual harassment is a form of misconduct that interferes with an individual's work performance. Sexual harassment does not refer to occasional compliments of a socially acceptable nature, but rather refers to sexual overtures or conduct that is personally offensive and affects morale, thus interfering with the individual's work performance.

B. Sexual harassment may include but is not limited to:

1. Verbal harassment or abuse, including sexually degrading words used to describe an individual.
2. Displaying in the workplace of sexually aggressive objects or pictures.
3. Subtle pressure for sexual activity.
4. Any sexually motivated touching.
5. Graphic verbal commentaries about an individual's body or clothing.
6. Intentional brushing against an individual's body.
7. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status.
8. Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status.
9. Sexual violence, which is a physical act of aggression that includes a sexual act or sexual purpose.

EXAMPLES OF SEXUAL HARASSMENT

A. Acts constituting sexual harassment include, but are not limited to, sexual advances when:

1. Submission to such conduct is either an expressed or implied term or condition of obtaining or retaining employment, or of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.

B. Any sexual harassment, as defined, when perpetrated on any student or employee by an employee will be treated as sexual harassment under this policy.

REPORTING PROCEDURES

A. Any person who believes he or she has been the victim of sexual harassment or sexual violence by an employee of COSSA, or any third person with knowledge or belief of conduct which may constitute sexual harassment or sexual violence should report the alleged act(s) immediately to:

1. District Building Principal
2. District Superintendent
3. COSSA Director

B. Any person not receiving satisfaction when reporting sexual harassment or sexual violence to a district building principal, district superintendent, or the COSSA Director should then report the incident to the COSSA Board of Trustees.

INVESTIGATION

When an allegation of sexual harassment is made of any employee, the designated school officials will take immediate steps to:

1. Protect the grievant from further harassment;
2. Discuss the matter with and obtain a statement from the accused and his or her representative, if any;
3. Obtain signed statements of witnesses; and
4. Prepare a report of the investigation.

If a report of sexual harassment is made to the building principal or district superintendent, he/she shall immediately relay the report to the COSSA Director, who will then take immediate steps to:

1. Obtain a written statement from the complainant regarding the allegations.
2. Obtain a written statement from the accused.
3. Obtain written statements from witnesses, if any.
4. Prepare a written report detailing the investigation.

The COSSA Director may appoint an investigator to conduct the investigation, or may conduct the investigation himself/herself. The investigation normally should be completed within ten (10) working days.

Because of their sensitive nature, complaints of sexual harassment will be investigated with particular care and will remain, to the extent possible, strictly confidential.

In no event will information concerning a complaint of sexual harassment be released by COSSA to third parties or to anyone within the agency who is not involved with the investigation. More specifically, information will not be released to the complaining employee's family or the news media.

In the event a report of sexual harassment is leveled against the COSSA Director, the Chairman of the Board of Trustees will assume the duties assigned to the COSSA Director above.

COSSA ACTION

A. If the investigation reveals that the complaint is valid, prompt disciplinary action designed to stop the harassment immediately and to prevent its recurrence will be taken. Minor first offenses will lead to oral or written reprimands. Major or multiple offenses will result in a recommendation to the Board that the offender be removed from office for misconduct in accordance with the procedures set forth in the statutes.

B. Complaints concerning certified staff will be prosecuted according to Idaho Code 33-513, including the hearing procedure and notification of Department of Teacher Certification, Idaho State Department of Education, if the COSSA Board of Trustees finds evidence of violation of the Teacher's Code of Ethics.

C. If, and only if, a complaint of sexual harassment was substantiated after investigation, a statement to that effect will be placed in the accused employee's personnel files and will be released to a prospective employer seeking a reference. The purpose of this provision is to protect the confidentiality of the employee who files a complaint; to encourage the reporting of any incidents of sexual harassment; and to protect the reputation of any employee wrongfully charged with sexual harassment.

OTHER REMEDIES AVAILABLE

This policy is intended to offer an "in-house" resolution to sexual harassment complaints. It in no way excludes the aggrieved party from exercising his/her rights before any other appropriate forum, including filing charges with the Seattle area office of the Equal Employment Opportunity Commission within 300 days of the alleged harm. The investigating party will not discourage or in any other manner dissuade an employee or student from utilizing his/her external remedies and will assist the employee or student in the exercise of his/her rights.

RETALIATION

COSSA prohibits retaliation toward any individual for filing a complaint or for participation in any investigation of sexual harassment activity. Any incidents of retaliation should be reported to the COSSA Director, or if retaliation involves the Director, should be reported to the Chairman of the Board of Trustees.

CONFIDENTIALITY

Due to the damage that could result to the career and reputation of any person accused falsely or in bad faith of sexual harassment, all investigations and hearings surrounding such matters will be designed, to the maximum extent possible, to protect the privacy of, and minimize suspicion towards, the accused as well as the complainant. Only those persons responsible for investigating and enforcing this policy will have access to confidential communications. In addition, all persons involved are prohibited from discussing the matter with coworkers and/or other persons not directly involved in resolving the matter.

A violation of this policy may result in discipline, up to and including discharge. Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action, up to and including discharge.

LEGAL REFERENCE:

Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R. § 1604.11

Title IX of Education Amendments, 20 U.S.C. §§ 1681, et seq.

I.C. § 67-5909 Acts Prohibited

I.C. 33-513

POLICY HISTORY:

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