



HOW WILL YOU SPEND YOUR FUTURE? *Securing the Financial Future and Sustaining the Trust of California's Educators*

POLICY MEMORANDUM

Branch: Administrative Services

Number:

Division: Human Resources

Effective Date: 04/01/96

Revised Date:

TITLE: Sexual Harassment

PURPOSE: It is the policy of CalSTRS that all employees have a right to work in an environment free from all forms of sexual harassment. CalSTRS is committed to a work environment free from sexual harassment which is illegal under both State and Federal law. It is prohibited by Title VII of the Civil Rights Act of 1964, as amended, and the Fair Employment and Housing Act.

POLICY: CalSTRS endorses a "zero tolerance" policy, which means sexual harassment will not be tolerated in the work environment. An employee does not have to be in violation of the law to be disciplined for violation of this zero tolerance policy.

CalSTRS employees are responsible for ensuring that sexual harassment does not occur and the standard for workplace conduct should be respect and professionalism. Employees are expected to immediately report any sexual harassment observed or experienced to any of the following: His or her supervisor; a trained and designated EEO Counselor; the EEO Officer; or any other CalSTRS supervisor or manager. Corrective action, including warning, reprimand, suspension, or dismissal, may be taken against those individuals determined to be in violation of this policy.

Prohibited Conduct

Sexual harassment is defined as unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. Following is a partial list of prohibited conduct:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct: leering, making sexual gestures,



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displaying of sexually suggestive objects or pictures, cartoons or posters.

- Verbal conduct: making or using derogatory comments, epithets, slurs, and jokes.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations.

Physical conduct: touching, assault, impeding or blocking movements.

Department Responsibility

CalSTRS is responsible for creating and maintaining a work environment free of sexual harassment. It is the responsibility of all CalSTRS managers and supervisors to ensure that their organizational units are in compliance with the Department's sexual harassment policy and to take all necessary steps to prevent sexual harassment.

This includes, setting the tone for a harassment-free work environment by informing new employees of this policy and periodically reiterating this policy to all subordinate staff.

The Human Resources Office is responsible for providing a copy of the policy to each new employee during the "New Employee Orientation" and for retaining the acknowledgement signed by each new employee in their official personnel folder. The Human Resources Office will also provide resources for counseling, assistance and support for victims of sexual harassment. Training is available for all employees to sensitize them to behavior that may constitute sexual harassment, as well as to inform them of employee rights.

Retaliation Prohibition

An employee who lodges a sexual harassment complaint or assists in an investigation of such a complaint will not be adversely affected in terms



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and conditions of employment nor discriminated against or discharged for bringing forth the complaint. Complaints of such retaliation will be promptly investigated. If retaliation is substantiated appropriate disciplinary action will be taken.

Every employee, whether a witness, complainant or alleged harasser, is expected to cooperate fully with every investigation. Concerns of individuals will be handled as sensitively as possible.

Manager and Supervisor Responsibilities

Supervisors and managers are responsible for maintaining standards that promote a work environment free from sexual harassment, retaliation, and unprofessional or disrespectful conduct. Managers and supervisors must:

- Adhere to and enforce this policy.
- Take proactive steps to prevent unprofessional or disrespectful conduct.
- Take direct, effective action to stop harassment or conduct that violates this policy.
- Ensure that employees under their supervision and management have attended mandated training.
- Respond immediately and appropriately to complaints of violations of this policy regardless of how the information is acquired and regardless of a complainant's desire to keep the complaint confidential (due to CalSTRS' obligation to stop prohibited conduct, complete confidentiality cannot be guaranteed; however, strict discretion will be applied and information will be shared only with those who need to know).
- Advise their employees of their rights and of the process for filing a discrimination complaint as described below.
- Notify his or her direct supervisor and the EEO Officer immediately upon becoming aware of conduct that may violate this policy.



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- Document any discussion with the employee and submit it in writing to the EEO Officer within five working days from the date of notification of a potential policy violation.

Supervisors and managers will be subject to appropriate corrective and/or disciplinary action, up to and including termination, for failing to carry out their duties to enforce this policy even if they have not personally engaged in discrimination.

Employee Responsibilities

All employees at all levels of the organization must avoid offensive or inappropriate behavior or conduct at work or while working and share in the responsibility for ensuring that the workplace is free from sexual harassment.

CalSTRS employees must:

- Adhere to this policy.
- Refrain from engaging in, condoning, tolerating, or leaving uncorrected or unreported conduct that violates this policy.
- Report any violations of this policy by making an informal report or formal complaint as described below.
- Fully cooperate in the inquiry and investigation processes and/or the resolution of a complaint.
- Attend training as mandated by the Chief Executive Officer.

Any CalSTRS employee who believes he or she has observed or been subjected to conduct prohibited by this policy is encouraged to tell the offender to stop his/her conduct and that the conduct is offensive and unwelcome; however, employees may file an informal report or complaint without confronting the offender.

An employee who is found to have violated this policy will be subject to appropriate corrective and/or disciplinary action, up to and including



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termination, regardless of job level or classification. Additionally, in California, individual employees and non-employees found to have engaged in prohibited conduct can be held personally liable, regardless of whether a manager or supervisor fails to take appropriate action.

Equal Employment Opportunity Officer Responsibilities

The EEO Officer has the responsibility to ensure all sexual harassment complaints (informal and formal) are investigated, even if the complaint is withdrawn or the complainant request that no action be taken. The EEO Officer must render final decision within 180 days of the filing of the formal complaint.

Complaint Process

Any employee who believes that a violation of this policy has occurred is encouraged to discuss the matter with his or her supervisor; however, it is not required. An individual seeking to report a violation of this policy may utilize any of the options listed below.

If you believe you have been sexually harassed, or if you have witnessed sexual harassment, you are encouraged to inform the offending employee and/or your supervisor that the behavior is unwelcome and offensive. However, you may file a complaint without confronting the offender. All complaints must be filed within 365 calendar days from the date of the alleged incident. The filing period may be extended up to an additional 90 calendar days if the complainant first obtained knowledge of the alleged harassment after one year from the date of its occurrence. A formal complaint must be resolved within 180 calendar days from the date of filing with CalSTRS. Time frames may be extended at any level of the process by mutual agreement.

Sexual harassment complaints by applicants not employed by the State and those not within the jurisdiction of the CalSTRS will be forwarded directly to the State Personnel Board to be resolved.



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All complaints or allegations of sexual harassment are subject to an investigation or management inquiry whether they are filed formally or informally.

Informal Report

If an employee believes that a violation of this policy occurred, he or she must, unless filing a formal complaint, make an informal report of the incident(s) to any one of the following: his or her supervisor, a trained and designated EEO Counselor, the EEO Officer, or any other CalSTRS supervisor or manager. The individual to whom the violation has been reported will take the necessary and appropriate action to assist the employee in resolving the claim quickly and at the lowest possible level. An employee is not required to first seek an informal resolution, but it is encouraged.

Formal Complaint

If an employee is not satisfied with the results of the informal process or decides to bypass the informal process, a formal complaint can be filed in writing (via CalSTRS Complaint Form, available in the CalSTRS HR Guide or in the Human Resources Office; or, via memorandum) with a manager, the EEO Officer, or the Human Resources Director. The written complaint should clearly state the facts upon which it is based, the person(s) involved, the relief requested, and sufficient detail to understand the nature of the complaint.

Additional Filing Options and Remedies

If not satisfied with the Department's decision, the complainant may forward the complaint within thirty (30) calendar days of the Department's decision, to the Appeals Division of the State Personnel Board at 801 Capitol Mall, Sacramento, CA 95814, for further consideration.



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An employee may file a complaint directly with the State Personnel Board if the complaint alleges harassment by a Departmental Director or member of the Executive Staff, if the issue involves retaliation, or if the Department has exceeded its time frame for completion.

An employee may also file a complaint, either separately or concurrently, with:

Department of Fair Employment and Housing (DFEH)
2000 "O" Street, Suite 120
Sacramento, CA 95814

U.S. Equal Employment Opportunity Commission (EEOC)
450 Golden Gate Avenue 5
West, P.O. Box 36025
San Francisco, CA 94102-3661
1-800-669-4000

Complaints must be filed with DFEH within three years and/or EEOC within 365 calendar days of the alleged discriminatory action.

Employees in certain Bargaining Units have an additional option of filing through the grievance process. However, it should be noted that the same complaint cannot be filed through both the CalSTRS EEO and grievance processes. Please refer to the appropriate Memoranda of Understanding for specific grievance filing guidelines.

DEFINITIONS:

REFERENCES & RELATED DOCUMENTS:

Title VII of the Federal Civil Rights Act of 1964
Fair Employment and Housing Act
SPB Rule 547, 547.1
Government Code Sections 12940, 19702.5, 19704
[Complaint Form](#)



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APPROVED:

Signature on File

Jack Ehnes, *Chief Executive Officer*

DATE: _____

(Date Signed)