

AGENDA FOR THE REGULAR MEETING OF THE
SIERRA COUNTY BOARD OF EDUCATION

October 13, 2020

Regular Session immediately follows the 6:00pm meeting of the Sierra-Plumas Joint Unified School
District Governing Board

*In accordance with the Governor's Executive Order pertaining to the convening of public
meetings in response to the COVID-19 pandemic, the Sierra County Board of Education will
hold meetings via Zoom Videoconferencing.*

Zoom link:

<https://us02web.zoom.us/j/82337620171>

Phone dial-in: 669-900-9128

Webinar ID: 823 3762 0171

*Any individual who requires disability-related accommodations or modifications including auxiliary aids and services in order to participate in the
Board meeting should contact the Superintendent or designee in writing.*

*Public inspection of agenda documents that are distributed to the Board less than 72 hours before the meeting, will be made available at the Sierra
County Office of Education, Room 3, 109 Beckwith Road, Loyalton, CA, 96118, and posted with the online agenda at
<http://www.sierracountyofficeofeducation.org> (Government Code 54957.5).*

A. CALL TO ORDER

Please be advised that this meeting will be recorded.

B. ROLL CALL

C. APPROVAL OF AGENDA

D. FLAG SALUTE

E. INFORMATION/DISCUSSION ITEMS

1. Superintendent's Report

- a. Devices and Technology Update
- b. SARB Update
- c. Professional Services Agreement with Leslie Marsden for 2020-2021
- d. Professional Services Agreement with Janis Hardeman for 2020-2021
- e. Assignment of Gina D'Andrea, Classroom Specialist (nursing duties), 5.4 hours daily, .900 FTE (temporary assignment)

2. Business Report

- a. Letter from California Department of Education, 2020-2021 Budget approved**
- b. Account Object Summary-Balance from 07/01/2020 to 09/30/2020**

3. Staff Reports (5 minutes)

4. Board Member Reports (5 minutes)

5. Public Comment – This is an opportunity for members of the public to directly address the governing board on any item of interest that is within the subject matter jurisdiction of the governing board whether or not it is listed on the agenda. Three (3) minutes may be allotted to each speaker and a maximum of twenty (20) minutes to each subject matter. (Education Code [35145.5](#); Bylaw 9322; Government Code [54954.3](#))

F. CONSENT CALENDAR

1. Approval of minutes for the Regular Board Meeting held September 08, 2020**
2. Approval of minutes for the Special Board Meeting held September 28, 2020**
3. Approval of minutes for the Special Board Meeting held September 30, 2020**
4. Approval of Budget Transfers for September 2020**
5. Approval of Board Report-Checks Dated 09/01/2020 through 09/30/2020**

6. Approval of Quarterly Report on Williams Uniform Complaints for quarter ending 09/30/2020. It is required per Education Code 35186 section (d) that a school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district.

- a. No complaints regarding textbooks and instructional materials, teacher vacancy or misassignment or conditions of facilities were filed with Sierra County Office of Education during the quarter ending 09/30/2020.

G. ACTION ITEMS

1. Old Business
 - a. Proposed comp time for Administrative and Office Staff**
2. New Business

PUBLIC HEARING—Textbooks and Instructional Materials

- a. Public Hearing to receive comments on the sufficiency of textbooks and instructional materials for Kindergarten through 12th grade in each subject and to assure that they are aligned with the state standards adopted pursuant to Ed. Code 60605 or 60605.8. Also meet the reporting and sufficiency requirements contained in Ed. Code 60119.
- b. Adoption of Resolution No. 20-013C, Sufficiency of Textbooks or Instructional Materials**
ROLL CALL VOTE

BOARD POLICIES, ADMINISTRATIVE REGULATIONS, EXHIBITS, BOARD BYLAWS

- c. 4030—Nondiscrimination in Employment
 1. Administrative Regulation, *revisions***
- d. 4119.11~4219.11~4319.11—Sexual Harassment
 1. Board Policy, *revisions***
 2. Administrative Regulation, *revisions***
- e. 4119.12~4219.12~4319.12—Title IX Sexual Harassment Complaint Procedures
 1. Administrative Regulation, *NEW***

H. ADVANCED PLANNING

1. Next Regular Board Meetings will be held on November 10, 2020 via Zoom Videoconferencing beginning with Closed Session as needed at 5:00pm and the Regular Board Meetings at 6:00pm.
2. Suggested Agenda Items

I. ADJOURN



James Berardi, Superintendent
Secretary to the County Board of Education

- *** prior month handout
- ** enclosed
- * handout



**CALIFORNIA DEPARTMENT
OF EDUCATION**

TONY THURMOND
STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION

1430 N STREET, SACRAMENTO, CA 95814-5901 • 916-319-0800 • WWW.CDE.CA.GOV

September 15, 2020

James Berardi, Superintendent
Sierra County Office of Education
Sierra Unified School District
P.O. Box 955
Loyalton, CA 96118

Dear Superintendent Berardi:

Subject: 2020–21 County Office of Education and School District Budgets

Pursuant to California *Education Code (EC)* sections 1622(b) and 42127(i), we have examined your budgets to determine whether they satisfy the following criteria:

- Comply with the Criteria and Standards for fiscal stability adopted by the State Board of Education,
- Allow your county office and school district to meet their financial obligations during the fiscal year, and
- Are consistent with a financial plan that will enable them to satisfy their multiyear financial commitments.

Based on this review, your 2020–21 adopted budgets are approved.

We note that 2020–21 negotiations with the certificated and classified bargaining units were not settled at the time the budgets were adopted. To the extent that collective bargaining agreements result in additional ongoing costs, we advise you that such increased costs should be supported by additional ongoing revenues or ongoing reduction of expenditures. Further, the Criteria and Standards specify that upon settlement, the county office of education must provide the California Department of Education with an analysis of the cost of the settlement and its impact on the operating budget. The public disclosure documents prepared in compliance with *Government Code* Section 3547.5 can be used to satisfy this requirement.

Pursuant to *Government Code* Section 3547.5(b), a school district superintendent and its chief business official must certify in writing that the costs incurred under a negotiated bargaining agreement can be met by the school district during the term of the agreement. Upon settlement, please provide our office with a copy of the certification and an itemization of the budget revisions needed to implement the agreement.

James Berardi, Superintendent

September 15, 2020

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We appreciate the submission of your budgets and await your First Interim Reports, which must be filed with our office no later than December 15, 2020. If you have any questions or concerns, please contact our office by email at sacsinfo@cde.ca.gov.

Sincerely,

/s/

Jonathan Feagle, Administrator
Fiscal Oversight and Support Office

JF:jm
2020-0202-46

cc: Nona Griesert, Business Manager

Balances through September						Fiscal Year 2020/21
Object	Description	Adopted Budget	Revised Budget	Encumbered	Expenditure	Account Balance
Fund 01 - Gen Fund						
1100	Teachers Salaries	362,817.00	362,817.00	276,999.30	36,380.58	49,437.12
1115	Certificated Extra Duty	1,500.00	1,500.00			1,500.00
1120	Certificated Substitutes	11,000.00	11,000.00			11,000.00
1200	Certificated Pupil Support Ser	30,561.00	30,561.00	22,920.57	7,640.19	.24
1300	Certificated Supervisor Admini	193,338.00	193,338.00	140,053.23	46,684.41	6,600.36
1310	Teacher in Charge	10,000.00	10,000.00	9,000.00	1,000.00	.00
	Total for Object 1000	609,216.00	609,216.00	448,973.10	91,705.18	68,537.72
2100	Instructional Aides' Salaries	182,919.00	182,919.00	103,034.61	6,941.99	72,942.40
2115	Classified Extra Duty	1,000.00	1,000.00		342.73	657.27
2120	Classified Substitutes	5,071.00	5,071.00		521.28	4,549.72
2200	Classified Support Salaries	38,348.00	38,348.00	10,512.24	3,192.52	24,643.24
2215	Classified Support Extra Duty	1,000.00	1,000.00			1,000.00
2220	Classified Substitute Salaries	1,000.00	1,000.00			1,000.00
2300	Classified Supervisors' Admini	119,910.00	119,910.00	82,154.00	27,390.00	10,366.00
2400	Clerical Technical Office Staf	131,453.00	131,453.00	97,103.07	30,349.68	4,000.25
2420	Clerical Substiture	250.00	250.00			250.00
2900	Other Classified Salaries	18,984.00	18,984.00		793.00	18,191.00
	Total for Object 2000	499,935.00	499,935.00	292,803.92	69,531.20	137,599.88
3101	STRS Certificated Positions	168,308.00	168,308.00	72,509.31	14,811.28	80,987.41
3102	STRS Classified Positions	24,778.00	24,778.00	699.30	198.88	23,879.82
3202	PERS Classified Positions	96,296.00	96,296.00	56,045.90	14,662.36	25,587.74
3301	OASDI Certificated Positions	4,347.00	4,347.00			4,347.00
3302	OASDI Classified Positions	30,015.00	30,015.00	17,687.96	4,189.08	8,137.96
3311	Medicare Certificated Position	8,522.00	8,522.00	6,249.78	1,281.58	990.64
3312	Medicare Classified Positions	7,181.00	7,181.00	4,203.37	999.34	1,978.29
3401	Health & Welfare Benefits Cert	120,128.00	120,128.00	93,025.17	15,879.91	11,222.92
3402	Health & Welfare Benefits Clas	112,389.00	112,389.00	67,453.47	22,103.88	22,831.65
3501	SUI Certificated	304.00	304.00	224.46	45.83	33.71
3502	SUI Classified	251.00	251.00	146.30	34.26	70.44
3601	Workers' Compensation Certific	22,479.00	22,479.00	16,355.07	3,353.75	2,770.18
3602	Workers' Compensation Classifi	18,948.00	18,948.00	10,999.41	2,615.03	5,333.56
3901	Golden Handshake	15,000.00	15,000.00			15,000.00
3902	Golden Handshake-Class	15,000.00	15,000.00			15,000.00
	Total for Object 3000	643,946.00	643,946.00	345,599.50	80,175.18	218,171.32
4100	Approved Textbooks Core Curric	1,103.00	1,103.00			1,103.00

Balances through September						Fiscal Year 2020/21
Object	Description	Adopted Budget	Revised Budget	Encumbered	Expenditure	Account Balance
Fund 01 - Gen Fund (continued)						
4300	Materials and Supplies	46,094.00	46,094.00	1,985.35	1,467.56	42,641.09
4320	Custodial Grounds Supplies	1,500.00	1,500.00	36.21		1,463.79
4330	Office Supplies	2,500.00	2,500.00	180.00		2,320.00
4350	Vehicle Upkeep	5,000.00	5,000.00	2,000.00	156.46	2,843.54
4399	Mat & Sup Undesignated Bal	879.00	879.00			879.00
4400	Noncapitalized Equipment	12,020.00	12,020.00			12,020.00
	Total for Object 4000	69,096.00	69,096.00	4,201.56	1,624.02	63,270.42
5100	Subagreements for Services	15,000.00	15,000.00			15,000.00
5200	Travel and Conference	17,079.00	17,079.00	5,262.50		11,816.50
5300	Dues and Membership	16,246.00	16,246.00	1,579.53	13,757.51	908.96
5400	Insurance	11,000.00	17,000.00		14,575.81	2,424.19
5500	Operation Housekeeping Service	14,500.00	14,500.00	3,861.54	138.46	10,500.00
5600	Rentals, Leases, Repairs, Nonc	1,850.00	1,850.00	602.32	179.30	1,068.38
5800	Professional Consulting	6,500.00	6,500.00			6,500.00
5801	Legal Services	18,500.00	18,500.00	2,710.00	2,207.50	13,582.50
5803	Legal Publications	500.00	500.00			500.00
5805	Personnel Expense	242.00	242.00	150.00		92.00
5808	Other Services & Fees	1,500.00	3,500.00	1,389.23	360.77	1,750.00
5810	Contracted Services	411,963.00	403,963.00	282,477.44	35,708.83	85,776.73
5899	SPJUSD to Reimburse			4,322.23	25,949.40	30,271.63-
5900	Communications	10,500.00	10,500.00	6,957.72	2,319.24	1,223.04
	Total for Object 5000	525,380.00	525,380.00	309,312.51	95,196.82	120,870.67
6400	Equipment	79,255.00	79,255.00	51,102.80	960.26	27,191.94
6500	Equipment Replacement	15,000.00	15,000.00			15,000.00
	Total for Object 6000	94,255.00	94,255.00	51,102.80	960.26	42,191.94
7110	County Tuition Inter Dist Agree	25,000.00	25,000.00			25,000.00
7141	Tuition, excess cost etc betwe	24,428.00	24,428.00			24,428.00
7310	Direct Support/Indirect Costs					.00
	Total for Object 7000	49,428.00	49,428.00	.00	.00	49,428.00
	Total for Fund 01 and Expense accounts	2,491,256.00	2,491,256.00	1,451,993.39	339,192.66	700,069.95
Fund 11 - ADULT ED						
1100	Teachers Salaries				1,769.50	1,769.50-
1300	Certificated Supervisor Admini	89,732.00	89,732.00	67,299.03	22,433.01	.04-
	Total for Object 1000	89,732.00	89,732.00	67,299.03	24,202.51	1,769.54-

Balances through September						Fiscal Year 2020/21
Object	Description	Adopted Budget	Revised Budget	Encumbered	Expenditure	Account Balance
Fund 11 - ADULT ED (continued)						
2100	Instructional Aides' Salaries	5,684.00	5,684.00			5,684.00
2200	Classified Support Salaries	14,210.00	14,210.00			14,210.00
	Total for Object 2000	19,894.00	19,894.00	.00	.00	19,894.00
3101	STRS Certificated Positions	19,692.00	19,692.00	10,868.76	3,908.69	4,914.55
3202	PERS Classified Positions	3,031.00	3,031.00			3,031.00
3302	OASDI Classified Positions	1,233.00	1,233.00			1,233.00
3311	Medicare Certificated Position	1,301.00	1,301.00	975.87	350.95	25.82-
3312	Medicare Classified Positions	288.00	288.00			288.00
3401	Health & Welfare Benefits Cert	12,767.00	12,767.00	9,575.10	3,191.70	.20
3501	SUI Certificated	45.00	45.00	33.66	12.10	.76-
3502	SUI Classified	10.00	10.00			10.00
3601	Workers' Compensation Certific	3,589.00	3,589.00	2,553.57	918.33	117.10
3602	Workers' Compensation Classifi	795.00	795.00			795.00
	Total for Object 3000	42,751.00	42,751.00	24,006.96	8,381.77	10,362.27
4100	Approved Textbooks Core Curric	5,000.00	3,000.00			3,000.00
4300	Materials and Supplies	3,000.00	2,000.00		125.00	1,875.00
4320	Custodial Grounds Supplies	1,500.00	1,000.00			1,000.00
4330	Office Supplies	1,000.00	500.00			500.00
4350	Vehicle Upkeep	150.00	1,650.00	1,184.22		465.78
4400	Noncapitalized Equipment	2,500.00	5,000.00	1,500.00	3,008.36	491.64
	Total for Object 4000	13,150.00	13,150.00	2,684.22	3,133.36	7,332.42
5200	Travel and Conference	1,500.00	1,000.00	946.69	53.31	.00
5203	MILEAGE	1,000.00	250.00			250.00
5300	Dues and Membership	700.00	1,100.00		1,070.00	30.00
5500	Operation Housekeeping Service	1,250.00	4,250.00	3,872.03	127.97	250.00
5600	Rentals, Leases, Repairs, Nonc	2,500.00	2,500.00	1,840.00	218.00	442.00
5801	Legal Services	1,000.00	500.00			500.00
5805	Personnel Expense		200.00	50.00		150.00
5810	Contracted Services	15,000.00	13,500.00	299.80	10,950.00	2,250.20
5900	Communications	5,000.00	3,550.00	958.44	241.56	2,350.00
	Total for Object 5000	27,950.00	26,850.00	7,966.96	12,660.84	6,222.20
6200	Building and Improvement of Bu		8,000.00	7,961.50		38.50
6400	Equipment	7,633.00	733.00			733.00
	Total for Object 6000	7,633.00	8,733.00	7,961.50	.00	771.50
7619	Other Authorized Interfund Tra	4,090.00	4,090.00			4,090.00

Balances through September						Fiscal Year 2020/21
Object	Description	Adopted Budget	Revised Budget	Encumbered	Expenditure	Account Balance
Total for Fund 11 and Expense accounts		205,200.00	205,200.00	109,918.67	48,378.48	46,902.85
Fund 16 - FOREST RES						
7211	Transfers of Pass-through Rev	330,000.00	330,000.00			330,000.00
7619	Other Authorized Interfund Tra	58,250.00	58,250.00			58,250.00
Total for Fund 16, Expense accounts and Object 7000		388,250.00	388,250.00	.00	.00	388,250.00
Total for Org 001 - Sierra County Office of Education		3,084,706.00	3,084,706.00	1,561,912.06	387,571.14	1,135,222.80

MINUTES FOR THE REGULAR MEETING OF THE
SIERRA COUNTY BOARD OF EDUCATION
September 08, 2020

In accordance with the Governor's Executive Order pertaining to the convening of public meetings in response to the COVID-19 pandemic, the Sierra County Board of Education held this meeting via Zoom Videoconferencing for the public.

6:00pm Regular Session

A. CALL TO ORDER

President PATTY HALL called the meeting to order at 6:06pm.

B. ROLL CALL

PRESENT: Patty Hall, President
Nicole Stannard, Vice President
Allen Wright, Clerk
Mike Moore, Member
Jenny Gant, Member

ABSENT: None

C. APPROVAL OF AGENDA

WRIGHT/STANNARD

5/0

D. FLAG SALUTE

E. INFORMATION/DISCUSSION ITEMS

1. Superintendent's Report

- a. Acceptance of Resignation for Julie Madrigal, Severely Handicapped Aide, Loylton High School, 1.0 FTE, effective August 14, 2020
- b. CDE approval of J-13A emergency days for 2019-2020
BERARDI: Approved emergency days for last school year due to power outages in Downieville.

2. Business Report

- a. Account Object Summary-Balance from 07/01/2020 to 08/31/2020

3. Staff Reports

ADULT ED—JACKSON: Held a summer professional development training for Google platform, attended by almost entire county and district staff. Plans for future events to continue with professional development for all staff.

SELPA—BETHKE: Off to a good start today with first day of school. Received a call yesterday from the previous OT wanting to come back, so working on that contract.

4. Board Member Reports

WRIGHT: Met the new teacher at Downieville School on Friday. Stayed home today due to wind and threat of fire, but would have liked to go to the school for the first day of school today.

MOORE: Observed kids walking by my house today and they looked to have enjoyed their first day.

STANNARD: My son had a very positive experience today for his first day of Kindergarten (LES). Compliments to the teachers and staff for being so well prepared for kids coming back to school today! Also want to mention that it feels

that communication between myself, Board Members and Administration needs to improve – there’s a gap in the information I’m receiving as a Board Member as well as a parent and community member.

MOORE: Superintendent can start doing an All-Call to just the Board Members on a regular basis to provide updated information without violating the Brown Act.

*GANT: **read statement regarding frustrations with communication between Board Members, Superintendent and Administration***

5. Public Comment

LINDSAY MCINTOSH—Executive director of Muisca Sierra, I am emailing on behalf of the Sierra County Arts Council, and The Sierra Schools Foundation in hopes to ask if we can be on the agenda for the next meeting. We are asking to have the 10k approved for the match funds for the two grants we were awarded through the California Arts Council, Artist in Schools, and Exposure Grant. Back in October, Mr. Berardi wrote a letter of support to these funds for our application for these grants, we would like to officially be on the agenda to be approved so we can start teaching music at all our school locations.

JENNA HOLLAND—With ALL due respect, the Board and District has a long history of poor communication and coordination of communication. Nicole is trying to fix and ongoing issue. The Board should be jumping on this to serve the community better.

F. CONSENT CALENDAR

1. Approval of minutes for the Regular Board Meeting held August 11, 2020
2. Approval of minutes for the Special Board Meeting held August 18, 2020
3. Approval of Board Report-Checks Dated 08/01/2020 through 08/31/2020
4. Approval of Extra Duty Assignment to Benjamin Raymond for Friday Night Live, Downieville Schools, 2020-2021

WRIGHT/MOORE

5/0

G. ACTION ITEMS

1. New Business

- a. Adoption of Resolution 20-012C, Adopting the Gann Limit

MOORE/WRIGHT

ROLL CALL VOTE:

HALL – AYE

STANNARD – AYE

WRIGHT – AYE

MOORE – AYE

GANT – AYE

5/0

- b. Adoption of Unaudited Actuals for Fiscal Year End June 30, 2020

WRIGHT/STANNARD

5/0

- c. Biennial Review of Conflict of Interest Code

No changes

- d. Proposed comp time for administration and their staff

WRIGHT: Proposing comp time for Administrative and Office staff to make up for off-time spent on all the site reopening plans due to the COVID-19 epidemic. Coordinate with Superintendent and Board President to have least impact on operations.

STANNARD: *Not comfortable with approving more time off for staff during a time when it seems we need them the most in their positions.*

GANT: *In favor of this suggestion keeping in mind that it not disrupt school operations when taking that extra time.*

MOORE: *Want to emphasize that this is to make up for time they missed out on during the summer that they were not contracted/obligated to work in planning for reopening because of COVID.*

HALL: *Would there be a cost with this?*

GRIESERT: *Those on the list mentioned by Allen would not cost us any extra due to no subs required for those positions when taking time off.*

STANNARD: *Would like to see something in writing at a later date so we know specifically what we are voting on. Feel this needs further discussion.*

DONNELLY: *Admin put in extra time all year long, so this is just another situation where we are putting in the time needed to do the job we signed up to do. Any recognition here is very much appreciated.*

****ADD TO OLD BUSINESS IN OCTOBER****

- e. Appointment of members of the Student Attendance Review Board as follows:
 - 1. J. Lon Cooper, Sierra County Public Defender
 - 2. Sandra Groven, Sierra County District Attorney
 - 3. Chuck Henson, Sierra County Chief Probation Officer (alternate Sofia Gonzalez)
 - 4. Laurie Marsh, Sierra County Behavioral Health (alternate Cara Bowling)
 - 5. Sheri Roen, Parent Representative
 - 6. Jamie Shiltz, Sierra County Social Services (alternate Kristal Evans)
 - 7. Mike Fisher, Sierra County Sheriff (alternate Brad Dempster)(Ed Code 48321 (a) (4) The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.)

MOORE/STANNARD

5/0

BOARD POLICIES, ADMINISTRATIVE REGULATIONS, EXHIBITS, BOARD BYLAWS

MOORE motioned to approve f-k as presented. Second by GANT.

5/0

- f. 3555—Nutrition Program Compliance
 - 1. Board Policy, *revisions*
 - 2. Exhibit, *NEW*
- g. 6020—Parent Involvement
 - 1. Board Policy, *revisions*
 - 2. Administrative Regulation, *revisions*
- h. 6142.7—Physical Education and Activity
 - 1. Board Policy, *revisions*
 - 2. Administrative Regulation, *revisions*
- i. 6159—Individualized Education Program
 - 1. Board Policy, *revisions*
 - 2. Administrative Regulation, *revisions*
- j. 6159.1—Procedural Safeguards for Special Education
 - 1. Board Policy, *revisions*
 - 2. Administrative Regulation, *revisions*
- k. 6159.2—Nonpublic, Nonsectarian School and Agency Services for Special Education
 - 1. Board Policy, *revisions*
 - 2. Administrative Regulation, *revisions*

ANNUAL REVIEW:

WRIGHT motioned to approve l-m with no changes. Second by *MOORE*.

5/0

- l. 5116.1—Intradistrict Open Enrollment
 1. Board Policy, *annual review*
 2. Administrative Regulation, *annual review*
 3. Exhibit, *annual review*
- m. 6145—Extracurricular and Cocurricular Activities
 1. Board Policy, *annual review*
 2. Administrative Regulation, *annual review*

H. ADVANCED PLANNING

1. Next Regular Board Meeting will be held on October 13, 2020 beginning with Closed Session as needed at 5:00pm and the Regular Board Meeting at 6:00pm.

*****Location to be determined*****

2. Suggested Agenda Items

LINDSAY MCINTOSH on behalf of Sierra County Arts Council – matching funds grant, \$10K (District item)

ISP (District item)

I. ADJOURN at 7:28pm

MOORE/GANT

5/0

Allen Wright, Clerk

James Berardi, Superintendent
Secretary to the County Board of Education

MINUTES FOR THE SPECIAL MEETING OF THE
SIERRA COUNTY BOARD OF EDUCATION

~For the purpose of holding a Public Hearing~

September 28, 2020

6:00pm

In accordance with the Governor's Executive Order pertaining to the convening of public meetings in response to the COVID-19 pandemic, the Governing Board of the Sierra-Plumas Joint Unified School District held this meeting via Zoom Videoconferencing.

A. CALL TO ORDER

President PATTY HALL called the meeting to order at 6:01pm.

B. ROLL CALL

PRESENT: Patty Hall, President
Nicole Stannard, Vice President
Allen Wright, Clerk
Mike Moore, Member

ABSENT: Jenny Gant, Member

C. APPROVAL OF AGENDA

WRIGHT/MOORE
4/0

D. PUBLIC COMMENT

JENNA HOLLAND--*Can you give an overview of what is being discussed and decided?*

E. ACTION ITEMS

1. New Business

PUBLIC HEARING – Learning Continuity and Attendance Plan 2020-2021

- a. Public Hearing opened at 6:09pm to receive public comment regarding the Learning Continuity and Attendance Plan for the 2020-2021 school year.

MOORE/WRIGHT

~Board discussion~

JENNA HOLLAND—

1. *Under Stakeholder Engagement, I'd like to see an actual, detailed plan for establishing more stakeholder engagement and improved public communication about all these issues in the report going forward. Communication is an ongoing struggle and if it's written in this plan, I hope that a meaningful commitment will be made to creating a communication protocol/plan to improve.*
2. *Speaking to the mental health section, I think parents need to be included in the plan to address student mental health. They need to know that there are resources available for their children to support their mental health. With more information, parents can advocate for their children effectively and we can ensure our students can access much needed care and support. I'd like to see how will the district communicate with parents about supporting their children and how to access mental health resources.*
3. *With all due respect and I'm sure this is a first draft, but you may want to get this plan proofread, I noticed multiple misspellings and typos.*

*RUTH—We heard that we are using some Adult Education resources and personnel to assist the district K-12 education. Can you speak to this ability to merge entities and funds? Is it possible? Isn't Adult Ed funded by state funds specifically to Adults?
Closed at 6:37pm.*

F. ADVANCED PLANNING

1. A *Special Board Meeting* will be held *Wednesday, September 30, 2020 at 10:00am* via Zoom Videoconferencing for the purpose of approving and adopting the Learning Continuity and Attendance Plan for the 2020-2021 school year.
2. Next Regular Board Meetings will be held on October 13, 2020 via Zoom Videoconferencing beginning with Closed Session as needed at 5:00pm and the Regular Board Meetings at 6:00pm.

G. ADJOURN *at 6:41pm*
WRIGHT/STANNARD
4/0

Allen Wright, Clerk

James Berardi, Superintendent

MINUTES FOR THE *SPECIAL MEETING* OF THE
SIERRA COUNTY BOARD OF EDUCATION
September 30, 2020
10:00am

In accordance with the Governor's Executive Order pertaining to the convening of public meetings in response to the COVID-19 pandemic, the Governing Board of the Sierra-Plumas Joint Unified School District held this meeting via Zoom Videoconferencing.

A. CALL TO ORDER

Clerk ALLEN WRIGHT called the meeting to order at *10:08am*.

B. ROLL CALL

PRESENT: Patty Hall, President (*joined via phone at 10:11am*)
Allen Wright, Clerk
Mike Moore, Member
Jenny Gant, Member

ABSENT: Nicole Stannard, Vice President

C. APPROVAL OF AGENDA

MOORE/GANT
3/0

D. PUBLIC COMMENT

None

E. ACTION ITEMS

1. New Business

- a. Approval and adoption of the Learning Continuity and Attendance Plan for the 2020-2021 school year
MOORE/GANT
JACOBSEN: Typos and misspellings were cleaned up, but no other changes from Monday.
4/0

F. ADVANCED PLANNING

1. Next Regular Board Meetings will be held on October 13, 2020 via Zoom Videoconferencing beginning with Closed Session as needed at 5:00pm and the Regular Board Meetings at 6:00pm.

G. ADJOURN *at 10:13am*

MOORE/HALL
4/0

Allen Wright, Clerk

James Berardi, Superintendent

Budget Transfer Link # 17975 **Fiscal Year 2021**

Budget Transfer # BT21-00001 **Status Posted** **Type BudXFer** **Fiscal Year 2021** **Transaction Date 09/30/2020**

Created NGRIESERT, 10/7/2020 Posted NGRIESERT, 10/7/2020 Department BUSINESS
 Requisition # Location Source Manual

Comment 2020 September Budget Tsf

Line Seq	Account #	Comments	Acct Type	Increase	Decrease
1	01-0000- -7110-7700-5810-002	2020 September Budget Tsf	E		2,000.00
2	01-0000- -0000-7200-5810-002	2020 September Budget Tsf	E		3,000.00
3	01-0000- -0000-3140-5810-002	2020 September Budget Tsf	E		3,000.00
4	01-0000- -0000-8100-5400-002	2020 September Budget Tsf	E	6,000.00	
5	01-0000- -0000-7200-5808-002	2020 September Budget Tsf	E	2,000.00	
BT # BT21-00001 Net Change to Expense				.00	
BT # BT21-00001 Net Change to Revenue					
BT # BT21-00001 Net Change to Starting Balance					
BT # BT21-00001 Net Change to Fund Balance					

Budget Transfer Link # 17976 **Fiscal Year 2021**

Budget Transfer # BT21-00002 **Status Posted** **Type BudXFer** **Fiscal Year 2021** **Transaction Date 09/30/2020**

Created NGRIESERT, 10/7/2020 Posted NGRIESERT, 10/7/2020 Department BUSINESS
 Requisition # Location Source Manual

Comment 2020 September AE Budget Tsf

Line Seq	Account #	Comments	Acct Type	Increase	Decrease
1	11-0000-4110-2700-4350-002	2020 September AE Budget Tsf	E	1,500.00	
2	11-0000-4110-1000-4400-002	2020 September AE Budget Tsf	E	2,500.00	
3	11-0000-4110-1000-4100-003	2020 September AE Budget Tsf	E		2,000.00
4	11-0000-4110-1000-4300-003	2020 September AE Budget Tsf	E		1,000.00
5	11-0000--0000-8100-4320-002	2020 September AE Budget Tsf	E		500.00
6	11-0000-4110-2700-4330-082	2020 September AE Budget Tsf	E		500.00
BT # BT21-00002 Net Change to Expense				.00	
BT # BT21-00002 Net Change to Revenue					
BT # BT21-00002 Net Change to Starting Balance					
BT # BT21-00002 Net Change to Fund Balance					

Budget Transfer Link # 17977 **Fiscal Year 2021**

Budget Transfer # BR21-00001 **Status Posted** **Type BudRev** **Fiscal Year 2021** **Transaction Date 09/30/2020**

Created NGRIESERT, 10/7/2020 Posted NGRIESERT, 10/7/2020 Department BUSINESS
 Requisition # Location Source Manual

Comment September 2020 AE Budget Tsf

Line Seq	Account #	Comments	Acct Type	Increase	Decrease
1	11-0000-4110-1000-5200-003	September 2020 AE Budget Tsf	E		500.00
2	11-0000-4110-1000-5203-003	September 2020 AE Budget Tsf	E		750.00
3	11-0000-4110-1000-5801-003	September 2020 AE Budget Tsf	E		500.00
4	11-0000-4110-1000-5810-003	September 2020 AE Budget Tsf	E		1,500.00
5	11-0000-4110-1000-5300-003	September 2020 AE Budget Tsf	E	400.00	
6	11-0000-0000-8100-5500-002	September 2020 AE Budget Tsf	E	3,000.00	
7	11-0000-4110-1000-5805-002	September 2020 AE Budget Tsf	E	200.00	
8	11-0000-0000-2700-5900-081	September 2020 AE Budget Tsf	E		1,450.00
9	11-0000-4110-8500-6200-002	September 2020 AE Budget Tsf	E	8,000.00	
10	11-0000-4110-1000-6400-003	September 2020 AE Budget Tsf	E		6,900.00
BT # BR21-00001 Net Change to Expense				.00	
BT # BR21-00001 Net Change to Revenue					
BT # BR21-00001 Net Change to Starting Balance					
BT # BR21-00001 Net Change to Fund Balance					

Checks Dated 09/01/2020 through 09/30/2020

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
00015735	09/10/2020	CIT	01-5900	PHONE SYSTEM/MAINTENANCE		773.08
00015736	09/10/2020	AZTEC SOFTWARE	11-5810	HSE CURRICULUM		7,350.00
00015737	09/10/2020	KRISTEN BECK	01-5810	CCFAC GRANT		2,000.00
00015738	09/10/2020	DELL MARKETING L.P. C/O DELL U SA L.P.	01-6400	CCFAC GRANT		960.26
00015739	09/10/2020	GIRARD, EDWARDS, STEVENS & TUCKER LLP	01-5801	LEGAL FEES	715.00	
			01-5899	LEGAL FEES	82.50	797.50
00015740	09/10/2020	LIBERTY UTILITIES CPEC	01-5500	ELECTRICAL SERVICE	70.03	
			11-5500	ELECTRICAL SERVICE	61.81	131.84
00015741	09/10/2020	PLUMAS-SIERRA TELECOMMUNICATIONS	11-5600	BROADBAND SERVICE		109.00
00015742	09/10/2020	SIERRA COUNTY OFFICE OF EDUCATION	01-5808	BANK SERVICE FEES		30.00
00015743	09/10/2020	U.S. BANK	01-4300	COVID SUPPLIES		1,249.88
00015744	09/10/2020	WHITE'S SIERRA STATION	01-4350	KIA BATTERY		156.46
00015745	09/28/2020	ACCREDITING COMMISSION FOR SCHOOLS	11-5300	ANNUAL MEMBERSHIP FEE		1,070.00
00015746	09/28/2020	AT&T	11-5900	PHONE		80.64
00015747	09/28/2020	NORTHEASTERN JOINT POWERS AUTHORITY	76-9571	WORKER'S COMPENSATION		10,411.75
00015748	09/28/2020	OFFICE DEPOT	01-4300	CLASSROOM SUPPLIES		14.15
00015749	09/28/2020	OUT WEST BUILDINGS	11-4400	GARDEN SHED		3,008.36
00015750	09/28/2020	PRESENCELEARNING, INC.	01-5810	PRESENCE LEARNING		107.24
00015751	09/28/2020	RAY MORGAN COMPANY	01-5600	COPIER MAINT.		25.88
00015752	09/28/2020	SELPA ADMINISTRATORS C/O HUMBOLDT - DEL NORTE SELPA	01-5300	SELPA DUES		600.00
00015753	09/28/2020	SIERRA COUNTY OFFICE OF EDUCATION	01-5808	BANK SERVICE FEES		91.59
00015754	09/28/2020	TRI COUNTY SCHOOLS INSURANCE GROUP	01-9535	SEP 20 HEALTH INSURANCE	2,272.00	
			76-9576	SEP 20 HEALTH INSURANCE	17,334.90	19,606.90
Total Number of Checks					20	48,574.53

Fund Summary

Fund	Description	Check Count	Expensed Amount
01	County School Service Fund	14	9,148.07
11	ADULT EDUCATION	6	11,679.81
76	Payroll Clearing	2	27,746.65
Total Number of Checks		20	48,574.53
Less Unpaid Sales Tax Liability			.00
Net (Check Amount)			48,574.53

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE ONLINE

October 13, 2020

For Board consideration due to extra time spent on reopening plans surrounding the COVID-19 pandemic

Proposed additional comp time for the following:

- 1) Superintendent
 - a) 20/21 5 days
 - b) 21/22 5 days
- 2) Site Administrators
 - a) 20/21 5 days
- 3) Business Manager
 - a) 20/21 5 days
- 4) Adult Ed/Tech Admin
 - a) 20/21 5 days
- 5) District Office Staff
 - a) 20/21 3 days

SIERRA COUNTY OFFICE OF EDUCATION

RESOLUTION NO. 20-013C

SUFFICIENCY OF TEXTBOOKS OR INSTRUCTIONAL MATERIALS

WHEREAS, the SIERRA COUNTY BOARD OF EDUCATION, in order to comply with the requirements of Education Code 60119, held a public hearing on October 13, 2020, at 6 o'clock, which is on or before the eighth week of school and which did not take place during or immediately following school hours, and;

WHEREAS, the Board provided at least 10 days notice of the public hearing by posting it in at least three public places within the County stating the time, place, and purpose of the hearing, and;

WHEREAS, the Board encouraged participation by parents/guardians, teachers, members, of the community, and bargaining unit leaders in the public hearing, and;

WHEREAS, information provided at the public hearing detailed the extent to which textbooks and instructional materials were provided to all students, including English learners, in the SIERRA COUNTY OFFICE OF EDUCATION, and;

WHEREAS, "instructional materials" means all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Each student, including English learners, will have a textbook or instructional materials, or both, to use in class and to take home, which may include materials in a digital format but shall not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage, and;

WHEREAS, sufficient textbooks and instructional materials were provided to each student, including English learners, that are aligned to the academic content standards and consistent with the cycle and content of the curriculum frameworks in the following subjects;

Mathematics	<u>My Math</u> , Grades K-5	McGraw-Hill Education © 2017
	<u>California Mathematics</u> , Grades 6,7	Macmillan/McGraw-Hill/Glencoe
	<u>Mathematics_Course 1</u>	Prentice Hall © 2013
	<u>Pre-Algebra</u> , Grades 8-12	Prentice Hall
	<u>Algebra II</u> , Grades 8-12	Glencoe
	<u>Pre Calculus</u>	Houghton Mifflin
	<i>Newly Adopted for 2015-16:</i>	
	<u>Mathematics, Course 1, Common Core</u>	Pearson Education, Inc.
	<u>Mathematics, Course 2, Common Core</u>	Pearson Education, Inc. ©2013
	<u>Mathematics, Course 3, Common Core</u>	Pearson Education, Inc. ©2013
	<u>Geometry, Common Core</u>	Pearson Education, Inc. ©2015
	<u>Algebra 1, Common Core, CA</u>	Pearson Education, Inc. ©2015
	<u>Algebra 2, Common Core, CA</u>	Pearson Education, Inc. ©2015
	<u>Calculus, AP Edition</u>	Pearson Education, Inc. ©2014
<u>Calculus, Graphical, Numerical, Algebraic, 5th Edition</u>	Pearson Education, Inc. ©2016	
<u>Financial Algebra</u>	Cengage Learning ©2011	

Science	<u>California Edition</u> , Grades 2-5 <u>Earth Science</u> (High School) <u>Life Science</u> , Grade 7 <u>Physical Science</u> , Grade 8 <u>Physics</u> <u>Biology</u> <u>Chemistry</u> <u>Chemistry</u> , 8 th ed.,	Harcourt Glencoe/McGraw Hill ©2013 Glencoe/McGraw Hill ©2012 Glencoe/McGraw Hill ©2012 Pearson © 2014 Glencoe/McGraw Hill ©2012 Glencoe/McGraw Hill ©2013 Cengage Learning ©2012
History/ Social Science	<u>My World</u> , Grades TK-5 Grades 6-8 <u>Impact</u> , Grades 9-12 <u>TCI, History Alive! Geography</u> , Grade 9 (Downieville only) <u>American Pageant</u> , AP Government <u>Geography</u> , Grades 9-12	Pearson Education, Inc. National Geographic/Cengage McGraw Hill Cengage Glencoe
English/ Language Arts (Including English Learners)	<u>Mirrors & Windows</u> <u>Continuing with Literature, Levels I-V</u> <u>British Tradition</u> <u>American Tradition</u> <u>Wonders CA Comprehensive System</u> <u>The Power of Connection</u>	EMC Publishing, LLC © 2016 McGraw-Hill Education © 2015-17

WHEREAS, sufficient textbooks or instructional materials were provided to each student enrolled in foreign language or health classes, and;

WHEREAS, laboratory science equipment was available for science laboratory classes offered in grades 9-12, inclusive.

THEREFORE, IT IS RESOLVED THAT for the 2020-2021 school year, the SIERRA COUNTY OFFICE OF EDUCATION has provided each student with sufficient textbooks and instructional materials aligned to the academic content standards and consistent with the cycles and content of the curriculum frameworks.

PASSED AND ADOPTED at a regular meeting of the SIERRA COUNTY BOARD OF EDUCATION held on October 13, 2020, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____
VACANT: _____

Allen Wright, Clerk
Sierra County Board of Education

CSBA POLICY GUIDE SHEET – October 13, 2020

Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

Administrative Regulation 4030 - Nondiscrimination in Employment

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.

Board Policy 4119.11/4219.11/4319.11 - Sexual Harassment

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.

Administrative Regulation 4119.11/4219.11/4319.11 - Sexual Harassment

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.

NEW - Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures

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.

Sierra County/Sierra-Plumas Joint USD

Administrative Regulation

All Personnel

AR 4030

NONDISCRIMINATION IN EMPLOYMENT

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.

Note: Pursuant to Government Code 11138 and 2 CCR 11023, districts are **mandated** to adopt rules and regulations to ensure that district programs and activities are free from unlawful discriminatory practices. Pursuant to Government Code 12940, protections against discrimination apply to employees, job applicants, persons who serve in unpaid internship or other limited-duration programs to gain unpaid work experience, volunteers, and independent contractors.

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)

Note: Many nondiscrimination laws and regulations require identification of an employee who is responsible for compliance with the nondiscrimination laws. For example, pursuant to 34 CFR 104.7, 106.8, and 110.25, the district is required to designate the person(s) responsible for the overall implementation of the requirements of federal laws which prohibit discrimination on the basis of disability, sex, and age, i.e., Section 504 of the Rehabilitation Act of 1973 (29 USC 794), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), and the Age Discrimination in Employment Act (29 USC 621-634). The district should fill in the blanks below to designate the responsible employee and contact information.

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. The Title IX Coordinator may be the same person designated below, or the district may designate separate employees to serve these functions. See AR 4119.11/4219.11/4319.11 - Sexual Harassment. The Title IX Coordinator is responsible for receiving complaints of sexual harassment and determining whether they should be handled in accordance with the procedures specified in this administrative regulation or in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures; see section on "Complaint Procedure" below.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage 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:

Laraine Sei, Personnel Technician
 PO Box 955, 109 Beckwith Road
 Loyalton CA 96118
 530-993-1660 Ext. 151
 lsei@spjUSD.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 in a conspicuous location on computers for employee use, up-to-date California Department of Fair Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, 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 to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy 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

Note: **Optional** item #5 below provides for training regarding the district's discrimination policy and reporting procedures. For requirements specifically pertaining to sexual harassment training, see AR 4119.11/4219.11/4319.11 - Sexual Harassment.

5. Provide training 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 includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate 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 direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

_____ The complainant may first attempt to resolve the situation informally with the complainant'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 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 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 further incidents. 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 of Education:** 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)

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 of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)

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 a 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)

SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

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Sierra County/Sierra-Plumas Joint USD

Board Policy

All Personnel

BP 4119.11 ~ 4219.11 ~ 4319.11

SEXUAL HARASSMENT

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, portions of the following administrative regulation will not take effect.

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 - Sexual Harassment.

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. 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 ~~county~~/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 county/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, fair, and fairequitable 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 mayshall 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 his/her/their district responsibilities or who has/have knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to his/her/their direct supervisor, another supervisor, a district administrator, or the district's coordinator for nondiscrimination, the Superintendent, or, if available, Title IX Coordinator. Employees may bypass their supervisor in filing a complaint hotline or an ombudsman if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the ~~coordinator~~ Title IX Coordinator.

~~Complaints of sexual harassment—Once notified, the Title IX Coordinator shall be filed and investigated in accordance with ensure the complaint procedure specified in is addressed through either AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures for complaints meeting the Title IX definition of sexual harassment or AR 4030 - Nondiscrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of~~ for complaints meeting the complaint state definition, as applicable, and shall offer supportive measures to the complainant.

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

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 or to take other subsequent necessary actions. (2 CCR 11023) 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 CODE200-262.4 *Prohibition of discrimination on the basis of sex*GOVERNMENT CODE12900-12996 *Fair Employment and Housing Act, especially:*12940 *Prohibited discrimination*12950 *Sexual harassment; distribution of information*12950.1 *Sexual harassment training*LABOR CODE1101 *Political activities of employees*1102.1 *Discrimination: sexual orientation*CODE OF REGULATIONS, TITLE 211009 *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 54900-4965 *Nondiscrimination in elementary and secondary education programs receiving state financial assistance*UNITED STATES CODE, TITLE 201681-1688 *Title IX prohibition against discrimination of the Education Amendments of 1972*UNITED STATES CODE, TITLE 422000e-2000e-17 *Title VII, Civil Rights Act of 1964, as amended*CODE OF FEDERAL REGULATIONS, TITLE 34106.1-106.9 *Nondiscrimination on the basis of sex in education programs or activities*106.51-106.6182 *Nondiscrimination on the basis of sex in employment in education program 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 SITESCalifornia 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>SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

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Administrative Regulation

All Personnel

AR 4119.11 ~ 4219.11 ~ 4319.11

SEXUAL HARASSMENT

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. However, in June 2020, two motions for a preliminary injunction were filed seeking to postpone the effective date of the regulations and prohibit their enforcement. If the court issues an injunction, portions of this administrative regulation reflecting the Title IX regulations will not be in effect. CSBA will notify districts when the court issues its decision.

Districts are also cautioned that 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 arise.

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.

~~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.

Title IX Coordinator

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, as well as to investigate and resolve sexual harassment complaints under AR 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

Laraine Sei, Personnel Technician
PO Box 955, 109 Beckwith Road
Loyalton CA 96118
530-993-1660 Ext. 151
lsei@spjusd.org

(cf. 4030 - Nondiscrimination in Employment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

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)

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

Definitions **Prohibited Conduct**

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).

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 when under any of the following conditions: (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.
33. 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.
4. 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 sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.~~

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 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 all 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.~~

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.

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

~~(cf. 4030 – Nondiscrimination in Employment)~~

~~(cf. 5145.7 – Sexual Harassment)~~

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 ~~or employees and employees~~ promoted employees to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A *supervisory employee* is any employee having the authority, in the interest of 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 ~~on~~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 practical potential employer/individual exposure/liability
 4. Strategies to prevent harassment in the workplace
 5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
 6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
- ~~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 ~~and resources~~
8. 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
- ~~6. Employees shall receive a copy of the district's sexual harassment policy and administrative ~~regulation~~ regulations, which ~~each participant~~ they shall read and acknowledge ~~in writing~~ that ~~he/she has~~ they have 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)

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

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
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

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)

SIERRA COUNTY OFFICE OF EDUCATION
 SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT
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Sierra County/Sierra-Plumas Joint USD

Administrative Regulation

All Personnel

AR 4119.12 ~ 4219.12 ~ 4319.12

TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

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.

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 was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30)

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 shall be investigated and responded to pursuant to AR 4030 - Nondiscrimination in Employment.
(*cf. 4030 - Nondiscrimination in Employment*)

A report of sexual harassment shall be submitted directly to or forwarded to the district's Title IX Coordinator using the contact information listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment.

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

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 alleged victim is not a party to the case, but will 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 in which 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. In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

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)

The Superintendent or designee shall ensure that the Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and that such persons 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, even if a formal complaint is not filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures which are nondisciplinary, nonpunitive, and do not unreasonably burden the other party. Such 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. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures. (34 CFR 106.30, 106.44)

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 that 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, and simultaneously to the parties, send written notice of the dismissal and the reasons for the dismissal. (34 CFR 106.45)

If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, 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

Formal Complaint Process

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, the district investigates allegations 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 provide either party with no less than three calendar days to raise concerns of conflict of interest or bias regarding any of these persons.

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 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 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
9. After sending the investigative report to the parties and before reaching a determination regarding responsibility, 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

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.

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)

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 45 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 district 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 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 determination, 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. Either party has the right to file a complaint with the U.S. Equal Employment Opportunity Commission.

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

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 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, any appeal or informal resolution and the results therefrom, and responses made pursuant to 34 CFR 106.44. (34 CFR 106.45)

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

(cf. 3580 - District Records)

*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>*

SIERRA COUNTY OFFICE OF EDUCATION
 SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

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