



LOS ANGELES UNIFIED SCHOOL DISTRICT
Policy Bulletin

TITLE: Employee-to-Student Sexual Abuse and Related Discipline Policy

NUMBER: BUL- 3357.1

ISSUER: Roberta Fesler, General Counsel
Office of the General Counsel

DATE: November 13, 2008

ROUTING
Office of General Counsel
Local District Superintendents
Operations Coords.
School Site Administrators
School Operations Division/Unit Heads

POLICY: The Los Angeles Unified School District is committed to maintaining a learning environment that is free from sexual abuse of students. Allegations of sexual abuse must be reported in accordance with applicable law and District policies regarding the reporting of suspected child abuse and responding to allegations of sexual harassment of students. This bulletin sets forth additional procedures to assist District personnel in responding to such allegations and in processing related discipline, when appropriate.

MAJOR CHANGES: This Bulletin replaces District Bulletin No. BUL-3357.0 of the same subject issued by the Office of the General Counsel, dated October 19, 2006. This bulletin provides updated information and guidelines and complies with all current applicable laws, including provisions of applicable collective bargaining agreements and Personnel Commission Rules.

PROCEDURES: The following procedures apply.

The District is committed to ensuring that allegations of sexual abuse of students are dealt with promptly and effectively. This policy assists administrators and supervisors in handling such allegations and in processing related discipline with the utmost concern for students, while complying with the rights of employees under applicable laws and the applicable collective bargaining agreement.

I. UPON RECEIPT OF ALLEGATION

Upon receipt of any information requiring mandatory suspected child abuse reporting for allegations of sexual abuse, employees must file a report of suspected child abuse with the local law enforcement agency. LAUSD School Police is not the contacting law enforcement agency for reporting



suspected child abuse/sexual abuse.

By law, the suspected child abuse report is confidential. Accordingly, the reporter has the option of providing the site administrator or Local District with a copy of the report. However, to ensure the child's protection and appropriate administrative action, it is suggested that the reporting employee immediately notify the site administrator or Local District of the inappropriate conduct. If the allegation involves the site administrator, the reporter must file a suspected child abuse report with the appropriate law enforcement agency. Further, the Local District Superintendent or Unit/Division Head, Employee Relations or the Staff Relations/HR Labor Representative should be informed. When apprised, the site administrator or Local District should:

- Verify that both the suspected child abuse telephone and written reports were made.
- If appropriate, respond to (i.e., stop, investigate, discipline) ongoing inappropriate acts which may constitute abuse, harassment or sexual harassment.
- Ensure that the Local District and/or Staff Relations/HR Staff, as applicable, are informed if an employee is the alleged perpetrator, as he or she may be relocated if the abuse allegations are pending or other risk factors exist.

Separate and apart from filing the suspected child abuse report, immediate steps must be taken to protect any alleged target of sexual abuse or inappropriate conduct.

II. LOCAL SUPERINTENDENT/DIVISION HEAD RESPONSIBILITIES

Once the Local District Superintendent or Unit /Division Head has received information of an alleged sexual abuse report that has been filed with an appropriate child protective agency, that person or his/her designee, with the assistance of Employee Relations, is responsible for following up with the appropriate law enforcement agency to determine how the matter is being handled. ***In Local Districts, the Operations Coordinator shall have responsibility for this process.***

When informed that law enforcement is investigating a matter, the District through its Local District Operations Coordinators/Division H.R. Reps in consultation with Employee Relations shall communicate with the local law



enforcement agency as to whether the school's/site administrative investigation would compromise the local law enforcement agency's criminal investigation. Absent objection by law enforcement of a concurrent investigation, the site administrator/supervisor shall commence the administrative investigation immediately. During this time, the Local District Superintendent or Unit/Division Head must exercise discretion as to whether the employee should be removed from the school site. The following factors apply in making this determination:

- Regarding allegations involving touching (intentional or otherwise) of the genitals or a student's private areas (*i.e.*, breasts and buttocks), above or under clothing, removal is ***strongly recommended***. The Director, School Services/Local District Superintendent will notify Employee Relations when the employee is temporarily reassigned (housed). The site shall consult with Staff Relations/HR Staff, as applicable, which in turn must consult with the Office of the General Counsel, in making the final recommendation.
- Regarding allegations involving sexual misconduct, including but not limited to, sexual intercourse, oral or anal copulation, masturbation, or display of sexual images, removal is ***strongly recommended***. The site shall consult Staff Relations/HR Staff, as applicable, which in turn must notify Employee Relations and consult the Office of the General Counsel, in making the final recommendation.
- Regarding allegations involving child annoyance of students, removal should be considered.
- If it is suspected that conduct by an employee could constitute both suspected child abuse and sexual harassment or inappropriate conduct, the suspected child abuse report must be filed immediately as required by District policy.
- Separate and apart from filing the suspected child abuse report, immediate steps should be taken to protect any alleged target of sexual harassment or inappropriate conduct.
- Other allegations may also require that the accused employee be removed from the site pending conclusion of an investigation as will be determined by the Local District Superintendent or Unit/Division Head within his or her discretion, in consultation with Staff Relations/HR Staff, as applicable, Employee Relations and the Office of the General Counsel.



III. INVESTIGATION – SITE ADMINISTRATOR RESPONSIBILITY

The site administrator/supervisor or Local District should work with the local law enforcement agency in a coordinated manner. The site administrator/supervisor will immediately commence an investigation into inappropriate conduct, unless otherwise informed by the law enforcement agency. To that end, the Operations Coordinator shall have the responsibility to communicate with law enforcement as to whether the school's investigation would compromise the law enforcement's criminal investigation. If law enforcement informs the District that the District may handle the matter administratively, a personnel investigation with the assistance of Staff Relations/HR Staff, as applicable, shall be commenced immediately.

IV. COMMUNICATIONS TO THE MEDIA AND THE PUBLIC

Any and all communications regarding the matter must be coordinated with the Office of Communications. Communications to the media should be made by the Chief Operating Officer, the Office of Communications, the Local Superintendent or the Unit/Division Head. Every effort must be taken to ensure the safety and well-being of students, while balancing the rights of the accused employee.

Specifically, all initial communications with the media should make clear that allegations against an employee do not constitute a substantiation of guilt or liability. The District's standard policy of "removal pending investigation" should be referenced in explaining to the public that the temporary removal of an employee should not be interpreted as a substantiation of the allegations against the employee.

V. POST-INVESTIGATION PROCEDURES

Once the investigation is concluded, if the allegations of inappropriate conduct do not result in the filing of criminal charges, the results should be immediately shared with the Chief Operating Officer and Employee Relations. Staff Relations/HR Staff, as applicable, will recommend appropriate discipline in consultation with the Office of the General Counsel.

- **The Decision by law enforcement not to proceed with prosecution of a matter must not influence the District's handling of the matter administratively.**



In any case, where discipline less than dismissal is imposed, the appropriate above-mentioned offices shall work with the employee's supervisor to ensure that the accused employee is counseled regarding applicable policies and procedures and that the employee is notified that violations of policies may result in discipline, up to and including dismissal.

- Transfers. If the employee is transferred to another site, the Chief Operating Officer, the Local District Superintendent or Unit/Division Head or his/her designee **MUST** advise the receiving site administrator and other supervisory personnel of the reason(s) for the transfer in accordance with the applicable collective bargaining agreement or Personnel Commission rule. The Local District Superintendent or Unit/Division Head or his/her designee shall contact the General Counsel and Staff Relations/HR Staff, as applicable to discuss appropriate procedures prior to the transfer. The investigation report shall not be included in any employee file at the new site without approval by the Office of the General Counsel and Staff Relations/HR Staff, as applicable, in order to ensure compliance with applicable laws.

The Local District School Services Director shall communicate with the Staff Relations/HR Staff, as applicable, and the receiving site administrator and other supervisory personnel to ensure that the transferred employee is on notice of applicable policies and procedures at the new school. The transferred employee shall also be advised of the reason(s) for the transfer.

After this intake procedure, the receiving site administrator and other supervisory personnel should ensure diligent supervision and evaluation of the transferred employee, within the parameters of the applicable collective bargaining agreement or Personnel Commission rules. The receiving site administrator and other supervisory personnel should document and address any failure to follow policies/procedures, but should also ensure that the employee is treated fairly and in accordance with District Policy and Personnel Rules.

VI. THIRD PARTY ALLEGATIONS INVOLVING EMPLOYEES

When sexual abuse of a minor (other than an LAUSD student) is alleged to have occurred by a District employee, such information must be forwarded to the Director of Employee Relations. The Director of Employee Relations will coordinate a fact gathering process, including



LOS ANGELES UNIFIED SCHOOL DISTRICT Policy Bulletin

interaction with law enforcement, in an effort to determine whether administrative action and/or discipline, including employment termination, is appropriate. The Director of Employee Relations will consult with the Office the General Counsel, Staff Relations/HR Staff, as applicable, School Operations and any other District department as needed, in order to make such a determination. Any decision to discipline an accused employee, or wait pending results of a concurrent criminal or other proceeding, shall be carried out in consultation with the Office of the General Counsel.

The provisions above regarding communications with the media and post-investigation procedures apply in third party complaint situations as well.

AUTHORITY: This is a policy of the Superintendent of Schools. The following legal standards are applied in this policy:

California Education Code Sections 49001 and 49050

Penal Code Section 11164 et seq.

Title IX Regulations, Title 34, Code of Federal Regulations, Part 106.

RELATED RESOURCES:

- “Child Abuse and Neglect Reporting Procedures,” Bulletin No. BUL-1347, issued by the Office of the General Counsel, dated November 15, 2004, provides complete information on child abuse reporting procedures in conformance with California state law and District policy.
- “Sexual Harassment Policy (Student-to-Student, Adult-to-Student, and Student-to-Adult),” Bulletin No. BUL-3349, issued by the Office of the General Counsel, dated November 29, 2006, provides information on sexual harassment complaint response procedures.

ASSISTANCE: For assistance or further information concerning this policy, please contact:
Assistant Superintendent, Staff Relations, at (213) 241-6056.

For assistance with issues relating to employee discipline, contact your respective Local District Staff Relations Field Director or Human Resources Representative.

For direction regarding responding to the media, please contact the Director of Communications at (213) 241-7000.