

**Complaints Concerning Discrimination In Employment**

Complaint Procedure

Any complaint by an employee or job applicant alleging discrimination or harassment shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: Any employee or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor, the district's Assistant Superintendent of Administrative Services or the Superintendent.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

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 Assistant Superintendent of Administrative Services or the Superintendent, 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, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

2. Investigation Process: The Assistant Superintendent of Administrative Services or the Superintendent shall initiate an impartial investigation of an allegation of discrimination or harassment within fifteen school days of receiving notice of the behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The Assistant Superintendent of Administrative Services or the Superintendent 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 Assistant Superintendent of Administrative Services or the Superintendent shall inform the complainant that the allegations will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

**Complaints Concerning Discrimination In Employment**

(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 Assistant Superintendent of Administrative Services or the Superintendent determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Assistant Superintendent of Administrative Services or the Superintendent should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

When necessary to carry out his/her investigation or to protect employee or student safety, the Assistant Superintendent of Administrative Services or the Superintendent may discuss the complaint with the Superintendent or district legal counsel.

The Assistant Superintendent of Administrative Services or the Superintendent shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents do not occur. The Assistant Superintendent of Administrative Services or the Superintendent shall ensure that such interim measures do not constitute retaliation.

3. **Written Notification of Findings and Corrective Action:** No more than 10 working days after completion of investigating the complaint, the Assistant Superintendent of Administrative Services or the Superintendent shall produce written notification of the findings and any applicable corrective actions. This timeline may be extended for good cause. If an extension is needed, the Assistant Superintendent of Administrative Services or the Superintendent shall notify the complainant and explain the reasons for the extension.

The notification shall include the decision, the reasons for the decision and a summary of the steps taken in conducting the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, address the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur.

The notification shall be presented to the complainant and the Superintendent. The person accused shall receive information regarding the steps taken to resolve the complaint and any applicable corrective actions.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Governing Board within 10 working days of receiving the written report/information of the Assistant Superintendent of Administrative Services or the Superintendent's findings. The Superintendent shall provide the Governing Board with all information presented during the investigation. Upon receiving an appeal, the Governing Board

**Complaints Concerning Discrimination In Employment**

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 Governing Board shall render its decision at its next regularly scheduled board meeting.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session Purposes and Agendas)

**Other Remedies**

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

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. To file a valid 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)

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination

**GOVERNMENT CODE**

12920-12921 Nondiscrimination

12940-12948 Discrimination prohibited; unlawful practices, generally

**UNITED STATES CODE, TITLE 20**

1681-1688 Title IX of the Education Amendments of 1972

**UNITED STATES CODE, TITLE 29**

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

**UNITED STATES CODE, TITLE 42**

2001d-2001d-7 Title VI, Civil Rights Act of 1964

2001e-2001e-17 Title VII, Civil Rights Act of 1964, as amended

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

2001h-2-2001h-6 Title IX of the Civil Rights Act of 1964

12101-12213 Americans with Disabilities Act

**Personnel**

AR 4031(d)

**Complaints Concerning Discrimination In Employment**

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

106.8 Designation of responsible employee for Title IX

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

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

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>