

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

The Governing Board recognizes the need to establish a process to allow employees and job applicants to have their concerns heard in an expeditious and unbiased manner. The Board expects that employees will make every effort to resolve complaints and disagreements informally before filing a formal complaint.

(cf. 1312.3 – Uniform Complaint Procedures)
(cf. 1312.4 – Williams Uniform Complaint Procedures)
(cf. 3320 – Claims and Actions Against the District)
(cf. 4031 – Complaints Concerning Discrimination in Employment)
(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)

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 and/or the Superintendent or designee.

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 Superintendent or designee, 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)

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)**2. Investigation Process**

The Superintendent or designee shall initiate an impartial investigation of an allegation of discrimination or harassment as soon as possible, typically within five 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 Superintendent or designee 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 Superintendent or designee 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.

(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 Superintendent or designee determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Superintendent or designee 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 Superintendent or designee may discuss the complaint with the district legal counsel, the district's risk manager or others.

The Superintendent or designee also shall 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 Superintendent or designee shall ensure that such interim measures do not constitute retaliation.

3. Written Report on Findings and Corrective Action

No more than 30 days after receiving the complaint, the Superintendent or designee shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Superintendent or designee shall notify the complainant and explain the reasons for the extension.

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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 also shall include any corrective action(s) that have been or will be taken to address the behavior, correct the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur.

Appropriate communication shall be presented to the complainant, the person accused, and others as deemed necessary by the Superintendent or designee.

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:

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)

To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)

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

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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

2000d-2000d-7 Title VI, Civil Rights Act of 1964, as amended

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

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

Legal Reference: (continued)

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