

All PersonnelComplaints Concerning Discrimination

The following procedures shall be followed when a district employee or job applicant has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district's nondiscrimination policies. (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)

1. The complaint must be initiated within 30 days after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the district determines as least likely to interfere with school schedules and operations.
5. For the protection of the complainant and the district, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the complaint shall be placed in a district complaint file and not in the employee's individual personnel file. (cf. 1340 - Access to District Records) (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)
7. Time limits specified in these procedures may be revised only by written mutual agreement of all parties involved. If the district fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

**Level I**

The complainant shall first meet informally with his/her supervisor or the administrator of the school where the alleged discriminatory act occurred. A complaint regarding discrimination away from a site should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare, within ten (10) working days, a written summary of his/her meeting(s) with the complainant. This report shall be available if requested by the nondiscrimination coordinator.

**Level II**

If a complaint cannot be satisfactorily resolved at Level I, the complainant may submit a formal written complaint to the Coordinator for Nondiscrimination in Employment within ten (10) days of his/her attempt to resolve the complaint informally. The written complaint shall include the following:

1. The complainant's name, address and telephone number.
2. The name and address of the district staff member who committed the alleged violation.
3. A description of the allegedly discriminatory act(s) or omission(s).
4. The discriminatory basis alleged.
5. A specific description of the time, place, nature, participants in and witnesses to the alleged violation.
6. Other pertinent information which may assist in investigating and resolving the complaint.
7. The complainant's signature or that of his/her representative.

The Coordinator for Nondiscrimination in Employment shall assign a staff member to assist the complainant with this writing if such help is needed. The coordinator shall respond to the complainant in writing within ten (10) working days.

The coordinator shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I report and all other relevant documents. If a response from third parties is necessary, the coordinator may designate up to ten (10) additional working days for investigation of the complaint.

#### **Level III**

If the complaint cannot be resolved at Level II, the complainant may present the complaint to the Superintendent or designee within ten (10) working days. The Superintendent or designee shall review the Level II investigation file, including the written complaint and all responses from district staff. The Superintendent or designee shall respond to the complainant in writing within ten (10) working days.

If the Superintendent or designee finds it necessary to conduct further investigation, he/she may designate up to ten (10) additional working days for such investigation and shall respond to the complainant in writing within ten (10) days of completing the investigation.

#### **Level IV**

If the matter is not resolved at Level III, the complainant may file a written appeal to the Governing Board within ten (10) working days after receiving the Level III response. The Superintendent or designee shall provide the Board with all information presented at previous levels.

The Board shall grant the hearing request for the next regular Board meeting for which it can be placed on the agenda. Any complaint against a district employee shall be conducted in closed session as a personnel matter. The Board shall render its decision within ten (10) working days. (cf. 1312.1 - Complaints Concerning District Employees) (cf. 9321 - Closed Session Purposes and Agendas)

The Board may appoint a hearing panel to review the complaint and previous decisions and make recommendations to the Board. The panel shall hear the appeal and render its decision within ten (10) working days.

**Other Remedies**

Complainants may appeal the district's action to the California Department of Education. The Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies may also be available to them. This information shall be published with the district's nondiscrimination complaint procedures and included in any related notices. (E.C. 262.3)

## Legal Reference:

<u>EDUCATION CODE</u>	
200-262.3	Prohibition of discrimination
<u>GOVERNMENT CODE</u>	
12920-12921	Nondiscrimination
12940-12948	Discrimination prohibited; unlawful practices, generally
<u>UNITED STATES CODE, TITLE 29</u>	
621-634	Age discrimination in Employment Act
794	Section 504 of the Rehabilitation Act of 1973
<u>UNITED STATES CODE, TITLE 42</u>	
2000d-2000d-7	Title VI, Civil Rights Act of 1964
2000e-2000e-17	Title VII, Civil Rights Act of 1964 as amended
2000h-2-2000h-6	Title IX, 1972 Education Act Amendments
12101-12213	Americans with Disabilities Act
<u>CODE OF FEDERAL REGULATIONS, TITLE 28</u>	
35.101-35.190	Americans with Disabilities Act