

All Personnel

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

AR 4031

Complaint Procedure

Any complaint by an employee or job applicant alleging discrimination, harassment or retaliation 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, harassment or retaliation shall promptly inform his/her supervisor, the district's Chief Compliance Officer or designee, 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, harassment or retaliation, or has observed such an incident, shall report it to the Chief Compliance Officer or designee, whether or not the complainant files a written complaint.

Under no circumstances shall an employee be required to submit a complaint to an individual in his or her direct line of supervision who is a subject of the complaint or witness to the allegations of the complaint. An employee may choose to submit a complaint to the next appropriate level or directly to the Chief Human Resources Officer.

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, harassment or retaliation, 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 Chief Compliance Officer or designee shall

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initiate an impartial investigation of an allegation of discrimination, harassment or retaliation 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 Chief Compliance Officer 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 Chief Compliance Officer 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 Chief Compliance Officer or designee determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Chief Compliance Officer 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 Chief Compliance Officer or designee may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The Chief Compliance Officer 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 Chief Compliance Officer 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 Chief Compliance Officer 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 Chief Compliance Officer 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, harassment or retaliation 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, harassment or retaliation does not occur.

The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

4. Appeal to the Governing Board: The complainant or the person accused may appeal any findings to the Board within 10 working days of receiving the written report of the Chief Compliance Officer or designee'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 working days.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session Purposes and Agendas)

Other Remedies

In addition to filing a discrimination, harassment or retaliation 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

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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

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

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>

Regulation

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PASADENA UNIFIED SCHOOL DISTRICT

Pasadena, California