

Fresno Unified Administrative Regulation (AR) 4030 Nondiscrimination In Employment

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1240 - Volunteer Assistance)
(cf. 3312 - Contracts)
(cf. 3600 - Consultants)
(cf. 4032 - Reasonable Accommodation)

The district designates the position identified below as its Coordinator for Nondiscrimination in Employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Chief of Human Resources/Labor Relations
Fresno Unified School District
Division of Human Resources
2309 Tulare Street
Fresno, CA 93721
Phone: (559) 457-3548
Email: NondiscriminationCoordinator@fresnounified.org

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Department of Fair Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.9)
 - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
 - b. Posting them in all district schools and offices, including staff lounges and other prominent locations
 - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)

(cf. 4111/4211/4311 - Recruitment and Selection)

3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
 - a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
 - e. Any other way that ensures employees receive and understand the policy

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

4. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
5. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

The district may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law
7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

Complaint Procedure

Complaints alleging conduct that meets the federal definition of sexual harassment in 34 CFR 106.30 must be investigated using the Administrative Regulation 4119.12/4219.12/4319.12, "Title IX Sexual Harassment Complaint Procedures." Title IX sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291)

The following procedures shall apply to complaints of sexual harassment that do not meet the Title IX definition as specified above, and all other complaints alleging unlawful discrimination or harassment on the basis of any of the characteristics listed in Board Policy 4030, i.e., an employee's actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, or association with a person or group with one or more of these actual or perceived characteristics.

1. Notice and Receipt of Complaint: A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

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 coordinator, 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, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. Investigation Process: The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete, or within five business days after written notice is sent dismissing a complaint on the grounds that the alleged conduct does not constitute sexual harassment as defined in Title IX and set forth in Administrative Regulation 4119.12/4219.12/ 4319.12.

The coordinator 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 coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed 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 coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. Written Report on Findings and Remedial/Corrective Action: No more than 60 calendar days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

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 shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. Appeal to the Governing Board:

The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. As soon as possible thereafter, the Board President or designee shall appoint a Board subcommittee consisting of no more than three Board members to review the written report of findings and all other information or documents provided by the coordinator related to the investigation.

The subcommittee shall present its written recommendation to the full Board in closed session as soon as reasonably practical, but no event later than the third regular Board meeting following receipt of the appeal. If the Board decides to accept the subcommittee's recommendation without any further proceedings, the Board's decision shall be final upon written notice to the complainant and the accused.

Alternatively, if the Board decides that a conference with the complainant and the accused is warranted prior to rendering a decision on the subcommittee's recommendation, the complainant and accused will be invited to the next regularly scheduled closed session. The conference with the Board shall not be an evidentiary hearing and neither party shall be permitted to call witnesses. The complainant and the accused, either themselves or through their representatives, shall have an opportunity to address the Board, present any arguments for or against the appeal and answer any questions.

Following this closed session conference, the Board shall either accept the subcommittee's recommendation or render its own decision on the appeal. The Board's decision shall be final upon written notice to the complainant and the accused.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 9321 - Closed Session)

Other Remedies

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

1. For filing a complaint with DFEH alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a 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)

Fresno Unified School District prohibits discrimination, harassment (including sexual harassment), intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age (40 and above), religious creed, religion, political belief or affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, childbirth, breastfeeding/lactation status, medical condition, military and veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment.

Regulation FRESNO UNIFIED SCHOOL DISTRICT
Approved: August 24, 1995 Fresno, California
Reviewed: June 28, 2000
Revised: February 10, 2005
Revised: May 16, 2022

Policy Section: 4000 Personnel