

All Personnel

**NONDISCRIMINATION IN EMPLOYMENT**

Complaint Procedure

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

1. Notice and Receipt of Complaint: Any employee or job applicant (complainant) who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor, the District's Coordinator for Nondiscrimination in Employment (Coordinator), or the Superintendent or designee.

If the complainant is an employee, he/she may first attempt to resolve the situation informally with his/her supervisor. If the complaint is not resolved informally, the complainant may file a written complaint with the Coordinator in accordance with this procedure.

A written complaint should contain:

- (a) The complainant's name.
- (b) The name of the individual(s) who committed the alleged act(s).
- (c) A description of the alleged discriminatory or harassing act(s) or omission(s).
- (d) The date and location where the alleged incident(s) occurred.
- (e) Any witnesses who may have relevant information regarding the allegations.
- (f) Other evidence of the discrimination or harassment.
- (g) Other pertinent information which may assist in investigating and resolving the complaint.
- (h) The complainant's signature.

A supervisor or manager who has received information about an alleged incident of discrimination or harassment, or has observed such an incident, shall report it to the Coordinator, regardless of whether the complainant files a written complaint.

2. Investigation Process: The Coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five school days of receiving notice of the alleged act(s), regardless of whether a written complaint has been filed or whether the written complaint is complete.

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2.

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 allegations will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

If the Coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Coordinator should interview the complainant, the individual(s) accused of the harassment or discrimination, and other individuals who may have relevant information.

When necessary to carry out his/her investigation or to protect employee or student safety, the Coordinator may discuss the complaint with the Superintendent or designee, District legal counsel, or the District's risk manager.

The Coordinator 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 Coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Corrective Action:** No more than thirty days after receiving the complaint, the Coordinator 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 Coordinator shall notify the complainant 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 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.

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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.

The report shall be presented to the complainant, individual(s) accused of the harassment or discrimination, and the Superintendent or designee.

4. Appeal to the Board of Education: The complainant or the individual(s) accused of the harassment or discrimination may appeal any findings to the Board within ten working days of receiving the written report of the Coordinator'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 the law. The Board shall render its decision within ten working days of the hearing.

Other Remedies

An employee may, in addition to filing a discrimination complaint with the District, 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, the employee must file his/her complaint within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code § 12960.

To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s).

3. To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier. (42 U.S.C. § 2000e-5.)

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**NONDISCRIMINATION IN EMPLOYMENT (continued)**

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

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

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

2000h-2-2000h-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

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, March 2010

WEB SITES

California Department of Fair Employment and Housing: [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

U.S. Equal Employment Opportunity Commission: [www.eeoc.gov](http://www.eeoc.gov)

U.S. Department of Education, Office for Civil Rights: [www2.ed.gov/about/offices/list/ocr](http://www2.ed.gov/about/offices/list/ocr)

Regulation

Reviewed: 03/12/14

Reviewed: 09/12/18

CHULA VISTA ELEMENTARY SCHOOL DISTRICT  
Chula Vista, California