

COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

The Governing Board designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment:

Superintendent
4182 Walnut Drive
Eureka, CA 95503
707 441-3900

COMPLAINT PROCEDURE

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, or the District's coordinator for Nondiscrimination in Employment.

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 who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator 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.

2. **Investigation Process:** The coordinator or designee shall initiate an impartial investigation of an allegation of discrimination or harassment within ten (10) days of receiving notice of the behavior, regardless of whether a written complaint has

been filed or whether the written complaint is complete. The coordinator may assign a staff member as his/her designee to conduct the investigation.

The coordinator 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 coordinator 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.

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

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

3. **Written Report on Findings and Corrective Action:** No more than sixty (60) working 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.

For all complaints, the decision shall include:

- a. The findings of fact based on the evidence gathered.
- b. The conclusion(s) of law.
- c. Disposition of the complaint.
- d. Rationale for such disposition.

- e. e. Corrective actions, if any are warranted.
- f. Include a copy of Board Policy 4144, prohibiting retaliation.

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 ten (10) 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 law. The Board shall render its decision within ten (10) days.

Other Remedies

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:

- 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 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)

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

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 WEBSITES

California Department of Fair Employment and Housing: www.dfeh.ca.gov

U.S. Equal Employment Opportunity Commission: www.eeoc.gov

Approved:04/10/2017

4031 AG

Cutten Elementary School District