

AR 4031 Personnel

Complaints Concerning Discrimination In Employment

The following procedures shall be used when a County Office of Education 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 County Office'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 should be initiated promptly 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 County Office determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential County Office personnel 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 agreement of all parties involved. If the County Office 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 the school 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 10 working days, a written summary of his/her meeting(s) with the complainant. This report shall be made available to the nondiscrimination coordinator (coordinator) designated by the County Superintendent of Schools in BP 4030 - Nondiscrimination in Employment.

Level II

If a complaint cannot be resolved to the satisfaction of the complainant at Level I, he/she may submit a formal written complaint to the coordinator within 10 working 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 work location of the County Office staff member who committed the alleged violation
3. A description of the alleged 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 shall assign a staff member to assist the complainant with this writing if such help is needed. The coordinator shall respond to the complaint in writing within 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 10 additional working days for investigation of the complaint.

Level III

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

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

Other Remedies

Complainants may appeal the County Superintendent's action to the California Department of Education. The County 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 County Office's nondiscrimination complaint procedures and included in any related notices. (Education Code 262.3)

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 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2001d-2001d-7 Title VI, Civil Rights Act of 1964

2001e-2001e-17 Title VII, Civil Rights Act of 1964 as amended

2001h-2-2001h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

Regulation STANISLAUS COUNTY OFFICE OF EDUCATION

approved: February 4, 2003 Modesto, California