

## **ALL PERSONNEL**

### **Complaints Concerning Discrimination In Employment**

The following procedures shall be used when a San Joaquin County Office of Education (SJCOE) 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 SJCOE's nondiscrimination policies.

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 SJCOE 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 SJCOE personnel complaint file and not in the employee's individual personnel file.
7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If SJCOE 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 designated by the Superintendent in SP 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 Nondiscrimination 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 SJCOE 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 Nondiscrimination Coordinator shall assign a staff member to assist the complainant with this writing if such help is needed. The Nondiscrimination Coordinator shall respond to the complaint in writing within 10 working days.

The Nondiscrimination 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 Nondiscrimination Coordinator may designate up to 10 additional working days for investigation of the complaint.

### **Level III**

The Deputy Superintendent shall review the Level II investigation file, including written complaint and all responses from staff. The Deputy Superintendent shall respond to the complaint in writing within 10 working days. If the Deputy Superintendent 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 10 working days of completing the investigation.

### **Other Remedies**

In addition to filing a discrimination or harassment complaint with SJCOE, 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.
2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s).
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.

cf: 0410 Nondiscrimination in Programs and Activities  
1312.1 Complaints Concerning Personnel or Programs  
3580 County Office of Education Records  
4030 Nondiscrimination in Employment  
4032 Reasonable Accommodation  
4112.6/4212.6/4312.6 Employee Records  
4119.23/4219.23/4319.23 Unauthorized Release of Confidential/Privileged Information  
4119.11/4219.11/4319.11 Sexual Harassment  
9321 Closed Session

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 – 2000ffe-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

(03/10)