

**Complaints Concerning Discrimination In Employment**

**Complaint Procedure**

The following procedures shall be used when a Solano County Office of Education (SCOE) employee or job applicant (“complainant”) believes s/he has been subjected to prohibited discrimination or harassment and wishes to file a complaint alleging discrimination or harassment. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.

1. *Notice and Receipt of Complaint:* The complainant shall promptly inform his/her supervisor, SCOE’s Coordinator for Nondiscrimination in Employment (“Coordinator”) designated by the County Superintendent in Administrative Policy 4030, or the County Superintendent or designee.

The complainant may file a written complaint in accordance with this procedure, or if s/he is an employee, may first attempt to resolve the situation informally with his/her supervisor.

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, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint. (Attachment A)

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 behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The Coordinator shall meet with the complainant to describe SCOE’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, s/he shall begin the investigation 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.

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, legal counsel, or SCOE’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 30 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. Time limits specified in these procedures may be revised by written agreement of all parties involved. If SCOE fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level.

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, the person accused, and the Superintendent or designee.

4. *Appeal Process:* The parties shall be notified of their right to appeal the decision 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.

#### Other Remedies

In addition to filing a discrimination or harassment complaint with SCOE, 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. (42 USC 2000e-5)

Employees wishing to file complaints with the DFEH and EEOC should contact the Nondiscrimination Coordinator for more information.

#### 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

Legal Reference: *(Continued)*

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

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, 1972 Education Act Amendments

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

Policy Cross-Reference:

0410 Nondiscrimination in Programs and Activities

1312.1 Complaints Concerning Employees

1340 Access to Records

3580 Records

4030 Nondiscrimination in Employment

4032 Reasonable Accommodation

4111 Recruitment and Selection

4111.1 Employment Procedures

4111.12 Instructions for Members of Interview Committees

4112.6 Personnel Files

4119.11 Sexual Harassment

4119.23 Unauthorized Release of Confidential/Privileged Information

4119.41 Employees with Infectious Disease

5145.7 Sexual Harassment



