

**NONDISCRIMINATION IN EMPLOYMENT**

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district, shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

Allegations and complaints falling under the provisions of Title IX of the Education Amendments of 1972, which are required to be investigated in accordance with standards detailed in 34 CFR 106.44-106.45, shall be investigated under Administrative Regulation 4119.12/4219.12/4319.12.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 1240 - Volunteer Assistance)*

*(cf. 3312 - Contracts)*

*(cf. 3600 - Consultants)*

*(cf. 4032 - Reasonable Accommodation)*

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Associate Superintendent  
Personnel Support Services  
15250 Avenue of Science, San Diego, CA  
858-521-2121  
jjimenez@powayusd.com

**Measures to Prevent Discrimination**

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically on the District website for employee use, up-to-date California Department of Fair Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

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2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, to employees, volunteers, interns, job applicants, and the general public by: (5 CCR 4960; 34 CFR 100.6, 106.9)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all district schools and offices, including staff lounges and other prominent locations
  - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
  - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return
  - b. Sending a copy of the policy via email with an acknowledgment return form
  - c. Posting a copy of the policy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
  - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
  - e. Any other way that ensures employees receive and understand the policy

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

4. Provide to employees a handbook that contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to anyone who believes they have been subject to discriminatory or harassing behavior

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

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5. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made.

*(cf. 4131 - Staff Development)*  
*(cf. 4231 - Staff Development)*  
*(cf. 4331 - Staff Development)*  
*(cf. 1240 - Volunteer Assistance)*  
*(cf. 4131 - Staff Development)*  
*(cf. 4231 - Staff Development)*  
*(cf. 4331 - Staff Development)*

6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law
7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

**Complaint Procedure**

Any complaint alleging discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Step 1 - Informal Resolution:** A complainant may inform a direct supervisor, another supervisor, the coordinator, or the Superintendent of their concerns regarding discrimination or harassment.

Before filing a formal complaint, the complainant should first attempt to resolve the situation informally with the respondent and complainant's supervisor. A complainant may bypass this step when the complainant's supervisor is the subject of the complaint.

A supervisor or manager who has received information about an alleged incident of discrimination or harassment, or who has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

**Step 2 - Formal Complaint Procedure:** If the complaint is not satisfactorily resolved through the informal resolution process, or is not appropriate for informal resolution, the complainant may submit 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, any available evidence of the discrimination or

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harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 4032 - Reasonable Accommodation)*

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

2. **Investigation Process:** The coordinator shall designate an impartial investigator, who shall initiate the investigation of alleged discrimination or harassment within five business days of receipt of the written complaint.

The investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process. Factual findings shall be based on collected preponderance of the evidence standard. The District will maintain confidentiality, unless necessary to conduct an effective investigation and/or comply with state or federal laws.

*(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)*

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the impartial investigator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the investigator shall notify the parties 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 shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and advise the parties that retaliation is prohibited. The report shall be presented to the Associate Superintendent of Personnel Support Services and a summary of the findings shall be presented to the complainant and the person accused.

4. **Step 3 - Appeal to Coordinator:** The complainant and/or respondent may present a written appeal of the Step 2 investigation findings to the Associate Superintendent of Personnel Support Services within 10 business days of receiving the written report of the

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findings. The Coordinator may meet with the parties and shall review all information relevant to the complaint. The Coordinator shall render a decision within 15 business days.

**Step 4 - Appeal to Superintendent:** The complainant and/or respondent may present a written appeal of the Step 3 decision to the Superintendent within 10 business days of receiving the Coordinator's decision. The Superintendent shall render a decision on the appeal within 15 business days.

5. **Step 5 - Appeal to the Governing Board:** The complainant and/or respondent may appeal the Step 4 decision to the Board within 10 business days of receiving the decision of the Superintendent or designee. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board may decide to hear the matter, or may uphold the Step 4 decision without a hearing. If the Board holds a hearing, any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days of the hearing.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 9321 - Closed Session)*

**Other Remedies**

In addition to filing a discrimination or harassment complaint with the district, a person may 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. For filing a complaint with DFEH alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a 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)