

County Office Regulation 4030: Nondiscrimination In Employment

Status: ADOPTED

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

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

Chief Human Resources Officer
San Luis Obispo County Office of Education
3350 Education Drive
San Luis Obispo, CA 93405
805-543-7732

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in COE employment, the County Superintendent of Schools or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the COE has employees, and post electronically in a conspicuous location on computers 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)
2. Publicize the COE's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, 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 COE schools and offices, including staff lounges and other prominent locations
 - c. Posting them on the COE's web site and providing easy access to them through COE-supported social media, when available
 3. Disseminate the COE'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 to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy on the COE website (Employee Annual Notifications) 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
 4. Post in a prominent location on the COE's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following: (34 CFR 106.8)
 - a. The COE does not discriminate on the basis of sex in any education program or activity that it operates
 - b. Inquiries about the application of Title IX may be referred to the COE's Title IX Coordinator and/or the U.S. Department of Education Office for Civil Rights
 - c. The name or title, office and email address, and telephone number of the COE's Title IX Coordinator
 - d. How to locate the COE's nondiscrimination policy and the COE's grievance procedures for Title IX complaints
 - e. How to report conduct that may constitute sex discrimination under Title IX
 - f. How to make a complaint of Title IX sex discrimination

If necessary due to the format or size of any publication specified above, the COE may include only the statement that the COE prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location of the complete notice on the COE's website.

The COE shall not distribute a publication stating that the COE treats students, employees or applicants

5. Provide to employees a handbook which contains information that clearly describes the COE's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
6. Provide training regarding the COE's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made as well as any additional training as specified in 34 CFR 106.8 related to the prohibition of Title IX sex discrimination

The COE may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

7. Periodically review the COE's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure COE compliance with law and Board Policy 4111 - Recruitment and Selection
8. For any COE 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 unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform a direct supervisor, another supervisor, the coordinator, the County Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

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, any available 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 shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing 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 the COE'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 investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin 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.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the County Superintendent or designee, COE legal counsel, or the COE's risk manager.

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 coordinator 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 coordinator 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 ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the County Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. Appeal to the County Superintendent : The complainant or the person accused may appeal any findings to the County Superintendent within 10 business days of receiving the written report of the coordinator's findings. The County Superintendent shall render his/her decision within 10 business days.

Other Remedies

In addition to filing a discrimination or harassment complaint with the COE, a person may file a complaint with either CRD or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with CRD 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 CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier (42 USC 2000e-5)

An employee may also file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the PUMP Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2)

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Cross References

| Code | Description |
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| 5145.71 | Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures |
| 5145.71-E(1) | Title IX Sex Discrimination and Sex-Based Harassment |

Complaint Procedures