

## AR 102a: Complaint Procedure

Any complaint by any community member, employee, or job applicant alleging discrimination or harassment shall be addressed in accordance with the following procedures:

**1. Notice and Receipt of Complaint:** Any community member, employee, or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform their supervisor or the Ombudsperson.

The complainant may file a written complaint in accordance with this procedure, or if they are an employee, may first attempt to resolve the situation informally with their 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 Ombudsperson, 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.

(Nondiscrimination in Employment)

(Sexual Harassment)

**2. Investigation Process:** The Ombudsman 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 Ombudsman shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The Ombudsman 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.

(District Records)

(Personnel Files)

If the Ombudsman determines that a detailed fact-finding investigation is necessary, they shall begin the investigation immediately. As part of this investigation, the Ombudsman 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 Ombudsman may discuss the complaint with the Superintendent or designee, district legal counsel, the district's risk manager, or the board.

The Ombudsman 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 60 days after receiving the complaint, the Ombudsman 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 Ombudsman shall notify the complainant 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 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 board, Superintendent or designee.

4. **Appeal to the Board of Trustees:** The complainant or the person accused may appeal any findings to the Board within 10 working days of receiving the written report of the Ombudsman's findings. The Ombudsperson shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

(Closed Session Purposes and Agendas)

#### Other Remedies

In addition to filing a discrimination or harassment complaint with the district, 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](#) (Government Code [12960](#))
2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC [2000e-5](#))
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](#))

#### 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

2001d-2001d-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 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

#### Management Resources:

##### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

## WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>