

NONDISCRIMINATION IN EMPLOYMENT

All allegations of discrimination in employment, including those involving an intern, volunteer or job applicant, shall be investigated and resolved in accordance with procedures specified in this Administrative Regulation.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to coordinate 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:

Acacia Thede
Chief Human Resources Officer
San Diego Unified School District
4100 Normal St., Room 1201
San Diego, CA 92103
619-725-8043
athede@sandi.net

Measures to Prevent Discrimination

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

1. Publicize the district'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 a prominent location at all district work sites, including staff lounges at all schools and offices.
 - c. Posting them on the electronically in a conspicuous location on district's website and providing easy access to them through district-supported social media, when available.
2. Disseminate the district's nondiscrimination policy to all employees by one or more of the following methods:
 - a. Printing and providing a copy of the policy to all employees, with an acknowledgement form for each employee to sign and return.
 - b. Sending the policy via e-mail with an acknowledgement return form.
 - c. Posting 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 with employees upon hire and/or during a new hire orientation session.
 - e. Any other way that ensures employees receive and understand the policy.

3. 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 feels that he/she has been the victim of any discriminatory or harassing behavior.
4. Provide training to employees, volunteers, and interns 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

Training for supervisors shall include the requirement to report any complaint of misconduct to a designated representative, such as the coordinator, human resources manager, or Superintendent or designee as a topic in the sexual harassment prevention training required pursuant to 2 CCR 11024 (2 CCR 11023)

5. 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.
6. 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.

Complaint Procedure

Complaints of sexual harassment shall be handled in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30, which defines sexual harassment as:

- (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or
- (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291.
(*cf. 4119.11/4219.11/4319.11 – Sexual Harassment*)

Any other 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 his/her direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman.

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

A supervisor or manager who has received information about the 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, and 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.

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 district'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. He/she shall also inform the parties that the investigation will be help 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, he/she shall initiate the investigation immediately. As part of this investigation, the coordinator or designee 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 his/her investigation or to protect employee safety, the coordinator or designee may discuss the complaint with the Supervisor or designee, district legal counsel, or the district's risk manager.

The coordinator also shall determine whether interim measures, such as scheduling change, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents are prevented. 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 or designee 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 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 also shall 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 complainant, the person accused, and the Superintendent or designee.

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. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exemption exists pursuant to 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)

Regulation approved:
March 5, 2019
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SAN DIEGO UNIFIED SCHOOL DISTRICT
San Diego, California