



## **ADMINISTRATIVE PROCEDURE**

CATEGORY: **Personnel, Complaints/Grievances**

SUBJECT: **Employee Complaints Alleging Harassment  
or Discrimination**

### **A. PURPOSE AND SCOPE**

1. To outline administrative procedures governing the ensuring of fair, equitable, and timely resolution of employee complaints alleging harassment or discrimination on the basis of race, religion, creed, color, marital status, veteran status, sex, sexual orientation, gender, gender identity, gender expression, ancestry, national origin or ethnic group identification, age, mental or physical disability.
2. **Related Procedures:**

Equal Opportunity in Employment .....	0100
Nondiscrimination on the Basis of Disability, Employees/Applicants .....	0110
Agency Complaints Alleging Discrimination .....	0120
Appeals Procedures for Management, Supervisory, and Confidential Employees ....	7113
3. This procedure is limited to complaints alleging harassment or discrimination in areas not covered in appropriate collective negotiations contracts, in grievance, in appeals procedures for unrepresented employees (Administrative Procedure 7113), or in employment regulations for classified employees.
4. Other types of complaints:
  - a. Employees in bargaining units – refer to applicable collective negotiations contract
  - b. Confidential employees – refer to Administrative Procedure 7113

### **B. LEGAL AND POLICY BASIS**

1. **Reference:** Board policies A-3000, A-3500, A-3600, I-1050, I-1800, I-7150, and J-1000; district collective negotiations contracts; California Education Code §44858, 45134, and 45293; Title VII, Public Law §88-352, 78 Stat. 253; Government Code §12940(j)(1).

### **C. GENERAL**

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Human Resource Services Division.
2. **Definitions.**
  - a. **Harassment:** Conduct directed toward an individual based on the individual's race, religion, creed, color, marital status, veteran status, sex, sexual orientation, gender, gender identity, gender expression, ancestry, national origin or ethnic group identification, age, mental or physical disability, which has the purpose or effect of interfering unreasonably with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
  - b. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Note: Sexual harassment under this procedure also refers to sexual harassment of district employees by certain persons who are not district employees (Government Code §12940(j)(1)).

- c. **Complaint:** Assertion or claim by one or more employees of a violation of a district policy or state or federal regulation prohibiting discrimination on the basis of race, religion, creed, color, marital status, veteran status, sex, sexual orientation, gender, gender identify, gender expression, ancestry, national origin or ethnic group identification, age, mental or physical disability.
  - d. **Plaintiff or complainant:** An employee or group of employees initiating a complaint.
  - e. **Supervisor:** (for the purposes of this procedure)
    - (1) For school personnel, the site principal/administrator.
    - (2) For all other district organizational units, the person who signs the employee's performance evaluation as the reviewing officer. When there is no reviewing officer, the person who signs the performance evaluation as the evaluator/rater.
  - f. **Workday:** Any day that district administrative offices are open for business.
  - g. **Party in interest:** An employee who might be required to take action, or against whom action might be taken, in order to resolve a complaint.
  - h. **Coordinator of compliance** with laws and regulations governing harassment or nondiscrimination as applied to employees: Chief Human Resources Officer or designee.
3. **General.**
- a. This procedure is designed to provide an orderly and timely method of administrative resolution of complaints alleging harassment or violation of nondiscrimination provisions of district, state, and federal regulations. It does not interfere with an individual's right to utilize state or federal complaint procedures; the individual might choose to utilize district procedures as a first step in resolution of the complaint. The Chief Human Resources Officer or designee is responsible for administration of this procedure.
  - b. Time schedules for completion of various steps in this procedure are designed to ensure prompt consideration of a complaint; extensions of time may be obtained through mutual agreement of the parties.

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- c. Any complaint not appealed to the next step of the procedure within prescribed time limits shall be considered resolved on the basis of the answer given in the preceding step.
  - d. Should processing of any complaint require that an employee be released from a regular assignment, he or she shall be released without loss of pay or benefits.
  - e. No retaliation or reprisals of any kind shall be taken by or against any participant in a complaint procedure by reason of such participation. The term "participant" includes, but is not limited to, complainants, persons against whom a complaint is made, and witnesses.
  - f. All documents, communications, and records related to processing of a complaint will be filed separately from personnel files of the participants.
  - g. All parties to a complaint will make available to other parties involved all information in their possession or control that is relevant to issues raised by the complaint and not privileged under the law.
4. **Representation.** The complainant, the person against whom the complaint is filed, and all parties in interest may be heard personally, or may be represented or accompanied by a person of their choice. Designation of representatives shall be in writing on the complaint form and filed at Step 2 as outlined in Section D.2.

#### **D. IMPLEMENTATION**

##### **1. Informal Resolution (Step 1):**

- a. Employee must initiate action with 15 workdays of the time he or she had knowledge of, or reasonably should have the knowledge of, the act or the omission giving rise to the complaint by requesting a conference with his/her supervisor to discuss the complaint. Informal discussion of problems and continuing interchange of views between employees and their supervisors are encouraged.
- b. Employee and supervisor should attempt to resolve differences or dissatisfactions as soon as possible. Normally, this informal discussion shall be restricted to supervisor and employee. Next higher supervisor may be consulted informally by mutual agreement.
- c. If an employee believes his/her supervisor is involved in the alleged harassment or discrimination, employee may consult informally with next higher supervisor. (The supervisor should contact the Human Resource Services Division for guidance in seeking a resolution to the complaint.)

##### **2. Formal Written Complaint (Step 2):**

- a. Employee initiates a formal complaint by filing a completed Employee Complaint Alleging Harassment or Discrimination (Attachment 1) with the Human Resources Division within 10 workdays after supervisor's response to employee's complaint in Step 1, as outlined in Section D.1. (Note: An employee may choose to skip Step 1 and file directly at Step 2.)

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b. Chief Human Resources Officer or designee:

- (1) Determines which other district departments or division have an interest in the complaint.
- (2) Holds a conference with the complainant, and any witnesses, as necessary after receipt of written complaint.
- (3) Resolves complaint as appropriate.

**E. FORMS AND AUXILIARY REFERENCES**

1. Employee Complaint Alleging Harassment or Discrimination (Attachment 1)

**F. REPORTS AND RECORDS**

1. Records of each complaint shall be filed separately from personnel file of the employee and are considered district property.

**G. APPROVED BY**



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General Counsel, Legal Services  
As to form and legality

**H. ISSUED BY**



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Chief of Staff