



## County Superintendent of Schools Administrative Regulation

### #4312 - Complaints

In order to promote fair and constructive communication, and to resolve complaints alleging improper activity, the following procedure shall govern the resolution of complaints. These procedures should be used for the following types of complaints:

1. a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district's nondiscrimination policies
2. a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the sexual harassment policies
3. "whistleblower" complaints regarding an improper County Office of Education activity

Complaints, which involve allegations endangering the health or safety of students, may require immediate action that does not follow the process outlined here, including duty to report suspected child abuse in accordance with law. Complaints alleging discrimination or failure to comply with state and federal laws in certain programs should be filed using the *Uniform Complaint Procedure* adopted by the County Office of Education and available from the Chief Human Resource Officer for the County Office of Education. Complaints regarding sufficiency of text book materials, teacher vacancy or misassignment, an urgent or emergency facility condition, or the failure to provide intensive instruction to students who did not pass the high school exit examination by the end of grade 12 shall be resolved in accordance with the County Office of Education's *Williams Uniform Complaint Procedure*.

(Education Code 35186; 5 CCR 4621)

For complaints regarding working conditions or other subjects of collective bargaining, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

Any of the time limits specified in this procedure may be extended by written agreement between the County Office of Education and the complainant.

#### Procedures

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged improper activity. A person with a complaint against an employee of the County Office of Education is encouraged to discuss his/her concern(s) directly with the employee against whom the complaint is lodged. The purpose of this discussion is to attempt to resolve the problem with the employee personally in a timely manner.

2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the County Office of Education determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential County Office of Education personnel complaint file and not in the employee's individual personnel file.
7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the County Office of Education fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding step.

#### **Level I – Informal Complaint Process**

1. The complainant may request a conference with the employee and the employee's immediate supervisor in an attempt to resolve the complaint directly between the parties involved. Every effort should be made to resolve a complaint between the parties involved in a timely manner.
2. The complainant shall first meet informally with his/her supervisor or the supervisor where the alleged incident occurred. A complaint regarding discrimination away from County Office facilities should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare, within 10 working days, a written summary of his/her meeting(s) with the complainant.

#### **Level II – Site Level Formal Complaint Process**

If a complaint cannot be resolved to the satisfaction of the complainant at Level I, he/she may submit a formal written complaint to the supervisor or designee. If a complainant fails to file a written complaint within 60 days, the complaint shall be considered settled on the basis of the answer given at the preceding step.

Written complaints shall be filed on a form available at all administrative offices of the County Office of Education. (See Form #4312A). If the form is not used, a letter may be substituted. Complaints shall be filed:

1. With the immediate supervisor if the complaint involves teachers or classified support staff working directly with students, or with the appropriate director or assistant superintendent, if the complaint involves a person not employed at a County Office of Education facility.
2. With the County Superintendent if the complaint involves an assistant superintendent or other administrative staff who report directly to the County Superintendent.

The written complaint shall include the following:

1. The name and work location of the County Office of Education staff member who committed the alleged violation.
2. The name of the employee against whom the complaint is being made.
3. A complete description of the complaint, including all names, dates and places necessary for a complete understanding of the complaint. A description of the alleged discriminatory act(s) or omission(s). A specific description of the time, place, nature, participants in and witnesses to the alleged violation.
4. The name of the County Office of Education administrator with whom the matter was discussed and the date and result of that discussion.
5. The solution that the complainant believes will resolve the complaint.
6. The signature of the complainant or that of his/her representative.
7. Other pertinent information which may assist in investigating and resolving the complaint.

A staff member will be assigned to assist the complainant with this writing if such help is needed.

The administrator shall respond to the complaint in writing within 10 working days.

1. The administrator shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I report and all other relevant documents. If a response from third parties is necessary, the administrator or designee may designate up to 10 additional working days for investigation of the complaint.
2. A written complaint should be filed with the immediate supervisor within ten (10) working days after the complainant knew, or should have known, of the incident.
3. The employee who is the subject of the written complaint shall receive a copy of the complaint and have the opportunity to submit a written response to the employee's immediate supervisor. The supervisor shall establish a reasonable time for the employee to respond.
4. When an employee's immediate supervisor receives a written complaint, the supervisor shall notify the Chief Human Resource Officer by sending a copy of the complaint, and a decision will be made establishing who will complete the investigation of the complaint. Generally, the immediate supervisor is responsible for investigating the complaint and attempting to resolve the complaint, however another administrator may be designated to investigate the complaint.
5. If appropriate, an attempt shall be made to have the employee meet with the complainant in the presence of the immediate supervisor, or other appropriate administrator, to resolve the complaint. The validity of the complaint shall be determined after providing the employee an opportunity to respond to the complaint.
6. If the complaint is resolved, the administrator investigating the complaint will advise all concerned in writing. If the complaint is not resolved to the satisfaction of all parties, the administrator investigating the complaint will render a decision and advise all concerned in writing within ten (10) working days of having received the written complaint.

### **Level III – Chief Human Resources Officer**

If the complaint cannot be resolved at Level II, either party may present the complaint to the Chief Human Resources Officer within 10 working days. The Chief Human Resources Officer shall review the

Level II investigation file, including the written complaint and all responses received. The Chief Human Resources Officer shall respond to the complaint in writing within 10 working days.

If the Chief Human Resources Officer finds it necessary to conduct further investigation, he/she may designate up to 10 additional working days for such investigation and shall respond to the complaint in writing within 10 working days of completing the investigation.

#### **Level IV – County Superintendent of Schools**

If either the complainant or the employee is not satisfied with the decision at the appeal level, the complainant or the employee may appeal to the County Superintendent. If the matter is not resolved at Level III, either party may file a written appeal to the County Superintendent within 10 working days after receiving the Level III response. The Chief Human Resources Officer shall provide the County Superintendent with all information presented at previous levels.

The County Superintendent shall review the complaint and make a decision to affirm or modify the previous decision within ten (10) working days and will inform all parties in writing of the decision.

Following a review of the complaint, the decision of the County Superintendent is final.

No document concerning a complaint against an employee shall be placed in an employee's file without following the requirements of applicable state statute or collective bargaining agreement.

For discrimination in employment complaints, Complainants may appeal the County Superintendent's action to the California Department of Education. The Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies may also be available to them. This information shall be published with the district's nondiscrimination complaint procedures and included in any related notices. (Education Code 262.3)

#### 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 29

621 - 634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d 2000d-7 Title VI, Civil Rights Act of 1964

2000e - 2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2 - 2000h-6 Title IX, 1972 Education Act Amendments

12101 - 12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101 - 35.190 Americans with Disabilities Act

PERSONNEL  
Administrative Regulation #4312

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

APPROVED BY COUNTY SUPERINTENDENT OF SCHOOLS - 6/13/05