

**County Office Regulation 4030: Nondiscrimination In Employment**

**Status:** ADOPTED

**Original Adopted Date:** 08/01/2022 | **Last Reviewed Date:** 08/01/2022

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services 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 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

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 computer Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights of a 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; 3-
  - 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
  - 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. Provide to employees a handbook which contains information that clearly describes the COE's nondiscrimination policy, procedures for filing a complaint, and the victim of any discriminatory or harassing behavior
5. Provide training regarding the COE's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom to report such behaviors.  

The COE may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and how to intervene when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene and support their intervention. (Government Code 12950.2)
6. Periodically review the COE's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure compliance with applicable laws and regulations.
7. 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 those employees.

**Complaint Procedure**

Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedure and harassment pursuant to 34 CFR 106.30.

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 a direct supervisor, another supervisor, the coordinator, the County Superintendent of Schools or the County Superintendent of Schools' designee. 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.

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 of the incident, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigation.
2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receipt of the complaint, 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 investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process as required. 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.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator shall 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 of Schools or designee.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is complete. 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. The 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 no further action is warranted, 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 resolution, and ensure that discrimination or harassment is prevented. The report shall be presented to the County Superintendent of Schools or designee.

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

4. **Appeal to the County Superintendent of Schools:** The complainant or the person accused may appeal any findings to the County Superintendent of Schools within 10 business days of the coordinator's findings. The County Superintendent of Schools 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 DFEH or the Equal Employment Opportunity Commission as follows:

1. For filing a complaint with DFEH alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception applies (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 DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of the employment (42 USC 2000e-5)

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#### Federal References

20 USC 1681-1688  
28 CFR 35.101-35.190  
29 USC 621-634  
29 USC 794  
34 CFR 100.6  
34 CFR 104.7  
34 CFR 104.8  
34 CFR 106.8  
34 CFR 106.9  
34 CFR 110.1-110.39  
42 USC 12101-12213  
42 USC 2000d-2000d-7  
42 USC 2000e-2000e-17  
42 USC 2000ff-2000ff-11  
42 USC 2000h-2-2000h-6  
42 USC 6101-6107

#### Description

Title IX of the Education Amendments of 1972; discrimination based on sex  
Americans with Disabilities Act  
Age Discrimination in Employment Act  
Rehabilitation Act of 1973, Section 504  
Compliance information  
Designation of responsible employee for Section 504  
Notice  
Designation of responsible employee and adoption of grievance procedures  
Severability  
Nondiscrimination on the basis of age  
Equal opportunity for individuals with disabilities  
Title VI, Civil Rights Act of 1964  
Title VII, Civil Rights Act of 1964, as amended  
Genetic Information Nondiscrimination Act of 2008  
Title IX of the Civil Rights Act of 1964  
Age Discrimination Act of 1975

#### Management Resources References

CA Dept of Fair Employment and Housing Publication  
Court Decision  
Court Decision  
U.S. DOE Office for Civil Rights Publication  
U.S. Equal Employment Opportunity Commission Publication

#### Description

Your Rights and Obligations as a Pregnant Employee  
Workplace Harassment Guide for California Employers  
Transgender Rights in the Workplace  
California Law Prohibits Workplace Discrimination and Harassment  
Thomson v. North American Stainless LP, (2011) 131 S.Ct. 863  
Shepard v. Loyola Marymount, (2002) 102 Cal.App.4th 837  
Notice of Non-Discrimination, August 2010  
Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

U.S. Equal Employment Opportunity Comm Publication

Website

Website

Website

**State References**

2 CCR 11006-11086

2 CCR 11023

2 CCR 11024

2 CCR 11027-11028

5 CCR 4900-4965

Civ. Code 51.7

Ed. Code 200-262.4

Gov. Code 11135

Gov. Code 11138

Gov. Code 12900-12996

Gov. Code 12940-12952

Gov. Code 12960-12976

Pen. Code 422.56

EEOC Compliance Manual

U.S. Equal Employment Opportunity Commission -

<https://simbli.eboardsolutions.com/SU/yWZpgy5hWTz73t9BVEDPpA==>

U.S. Department of Education, Office for Civil Rights -

<https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==>

California Department of Fair Employment and Housing -

<https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyl8K40jw==>

**Description**

Discrimination in employment -

<https://simbli.eboardsolutions.com/SU/jUNOUneBGplusu4fvMYTIWMKA==>

Harassment and discrimination prevention and correction -

<https://simbli.eboardsolutions.com/SU/haAgKnrQhVJbslsh34hY5zslsh5Q==>

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation - <https://simbli.eboardsolutions.com/SU/WdslshVrKs4pluscFHplushNGLhCeQw==>

National origin and ancestry discrimination -

<https://simbli.eboardsolutions.com/SU/SYk7u9LttH4epGWfUlfjdg==>

Nondiscrimination in elementary and secondary education programs

Freedom from violence or intimidation -

<https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==>

Educational equity; prohibition of discrimination on the basis of sex -

<https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAAbNL6kKkgxQ==>

Unlawful discrimination - <https://simbli.eboardsolutions.com/SU/PcUFWeMcCJnzBrKAL0EtfQ==>

Rules and regulations

Fair Employment and Housing Act

Unlawful employment practices

Unlawful employment practices; complaints

Definitions, hate crimes