

Series 4000 – Personnel

AR 4030

TITLE: Nondiscrimination In Employment	
Approved by: <u>Francisco Reveles</u> <i>Francisco Reveles, Ed.D., Superintendent of Schools</i>	Series: Personnel Version: 1 Effective Date: 4/20/2022 Previous Policy Date: New Revised By: Committee Policy Number: AR 4030

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to Yuba County Office of Education (YCOE) shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

YCOE designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage YCOE's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding nondiscrimination policies. The coordinator may be contacted at:

 Mary Hang, Executive Director of Human Resources

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 530-749-4870

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Measures to Prevent Discrimination

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

1. Display in a prominent and accessible location at every work site where YCOE has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Department of Fair Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)
2. Publicize YCOE'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 all schools and offices, including staff lounges and other prominent locations
 - c. Posting them on YCOE's web site and providing easy access to them through district-supported social media, when available
3. Disseminate YCOE'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 YCOE intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 - 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
1. Provide to employees a handbook which contains information that clearly describes YCOE's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
2. Provide training regarding YCOE's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

YCOE may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

3. Periodically review YCOE's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure compliance.

4. For any 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 (2 CCR 11023)

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 Procedures if the alleged conduct meets the definition of sexual 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 Superintendent or, if available, a complaint hotline or an ombudsman. 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, 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, any available 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 YCOE'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. 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 as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, the

investigation shall begin immediately. As part of this investigation, the coordinator 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 the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, legal counsel, or risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. 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 of the 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 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 resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

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

Other Remedies

In addition to filing a discrimination or harassment complaint with YCOE, a person may file a complaint with either DFEH or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are 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 exists pursuant to Government Code 12960 (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 proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

Federal

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
 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

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 Comm Publication
 U.S. Equal Employment Opportunity Comm Publication
 Website
 Website
 Website

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
 Shephard v. Loyola Marymount, (2002) 102 Cal.Appl 4th 837
 Notice of Non-Discrimination, August 2010

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

[U.S. Equal Employment Opportunity Commission](#)
[U.S. Department of Education, Office for Civil Rights](#)
[California Department of Fair Employment and Housing](#)

Description

2 CCR 11006-11086	Discrimination in employment
2 CCR 11023	Harassment and discrimination prevention and correction
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11027-11028	National origin and ancestry discrimination
5 CCR 4900-4965	Nondiscrimination in elementary and secondary education programs
Civ. Code 51.7	Freedom from violence or intimidation
Ed. Code 200-262.4	Educational equity; prohibition of discrimination on the basis of sex
Gov. Code 11135	Unlawful discrimination
Gov. Code 11138	Rules and regulations
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12952	Unlawful employment practices
Gov. Code 12960-12976	Unlawful employment practices; complaints
Pen. Code 422.56	Definitions, hate crimes