

NONDISCRIMINATION IN DISTRICT PROGRAMS AND ACTIVITIES

Grievance Procedure for Concerns related to Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title I and Title II of the Americans With Disabilities Act of 1990, the Age Discrimination in Employment Act, California Government Code Section 11135, California Fair Employment and Housing Act, California Education Code Sections 200 through 232, and California Labor Code Section 1102.1, and their implementing regulations, regarding the prohibition of discrimination or harassment on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, marital status, or mental or physical disability.

A "grievance" is a complaint alleging discrimination or harassment on the basis of sex, disability, race, color, national origin, religious creed, age, marital status, or sexual orientation in violation of the laws (or their implementing regulations) set forth in Board Policy 4100.2, 4200.2 and 5145.3, or in violation of official District policies.

DEFINITIONS

- (a) "Days" means working days for grievances filed by employees, and school attendance days for grievances filed by students.
- (b) "District" means the San Dieguito Union High School District.
- (c) "Employee" means a person who is on a permanent basis, as opposed to a temporary basis, on the payroll of the District.
- (d) A "grievance" is a complaint alleging discrimination or harassment on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, marital status, or mental or physical disability in violation of the laws (or their implementing regulations) set forth in Board Policy 4100.2, 4200.2 and 5145.3, or in violation of official District policies.
- (e) "Responsible official" means the employee designated by the District to coordinate its efforts to comply with and carry out its responsibilities under the federal or state laws (and their implementing regulations) set forth in Board Policy 4100.2, 4200.2 and 5145.3, including Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973 (the Director, Personnel Services).
- (f) "Student" means a person enrolled in one of the schools operated by the District.
- (g) "Superintendent" means the Superintendent of Schools or his/her designee.
- (h) "Harassment" means conduct which has the purpose or effect of interfering unreasonably with an individual's work or academic performance, or creating an intimidating, hostile or offensive work or educational environment.
- (i) "Sexual Harassment", pursuant to Education Code section 212.5, means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:
 - 1. Submission to the conduct is explicitly or implicitly made a term or a condition of an

- individual's employment, academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
 3. The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
 4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

PROCEDURE

All grievances brought by students or employees alleging discrimination or harassment on the basis of sex sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, marital status, or mental or physical disability in violation of the laws (or their implementing regulations) set forth in Board Policy 4100.2, 4200.2 and 5145.3, or in violation of official District policies shall be handled in the following manner:

STEP ONE - INFORMAL

Within thirty (30) days of the time that the grievant knew, or reasonably should have known of the grievance, the grievant shall present the grievance orally to the building principal (if the grievant is a student) or to the immediate supervisor (if the grievant is an employee). Within ten (10) days after presentation of the grievance, the principal or immediate supervisor shall orally answer the grievance.

STEP TWO - THE "RESPONSIBLE OFFICIAL"

- (a) Within ten (10) days of the oral answer, if the grievance is not resolved, it shall be stated in writing, signed by the grievant and submitted to the Director, personnel Services on the form provided as part of this procedure.
- (b) The grievance shall:
 1. State the name, address and telephone number of the employee or student submitting the grievance.
 2. Give a description of the allegedly discriminatory act(s) or omission(s), including the time, place and nature of its/their occurrence.
 3. State the discriminatory basis alleged, including, if possible, reference to the specific law(s) (or their implementing regulations) set forth in Board Policy 4100.2, 4200.2 and 5145.3, or to the official District policy or policies, which may have been violated.
 4. Give a description of the participants in and witnesses to the alleged violation, including the name of the person who committed the alleged violation.
 5. Indicate the relief requested.

STEP THREE - THE SUPERINTENDENT

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- (a) If the grievance is not resolved in Step Two, the grievant may, within ten (10) days of receipt of the Responsible Official's answer, appeal to the Superintendent by filing the grievance and the Responsible Official's answer, along with any written response of the grievant to the answer of the Responsible Official, with the office of the Superintendent, which shall receipt therefore.
- (b) The Superintendent shall hear the grievance within ten (10) days after receipt of any written grievance properly filed with the Superintendent's office and shall render his/her decision in writing within ten (10) days after such hearing.
- (c) The grievant shall be afforded a full and fair opportunity to present evidence relevant to the facts and to the issues raised by the grievance and may be represented by counsel at the hearing of a grievance by the Superintendent.
- (d) The grievant shall be furnished a copy of the decision of the Superintendent.

STEP FOUR - THE BOARD

If the grievance is not resolved in Step Three, a written appeal may be filed with the Board of Trustees within ten (10) days of receipt of the Superintendent's decision. The Board shall grant the hearing request for the next regular Board meeting for which it can be placed on the agenda. The Superintendent shall provide the Board with all information presented at previous levels. The Board shall render its decision not later than the next regular Board meeting following the meeting at which the hearing is concluded.

PROCEDURE WHERE INDIVIDUAL RESPONSIBLE FOR HANDLING A STEP IS THE PERSON ALLEGED TO HAVE COMMITTED THE VIOLATION

When a grievance identifies the individual responsible for the grievance process at any step as the person who committed the alleged violation, the grievant may address the grievance directly to the next appropriate level.

CONFIDENTIALITY OF GRIEVANCE PROCEEDINGS

For the protection of the grievant and the District, the grievance proceedings shall be kept confidential insofar as appropriate.

NO RETALIATION

No retaliation shall be taken in any form for the filing of a grievance, the reporting of instances of discrimination or harassment, or for participation in the grievance process or proceedings. Such participation shall not in any way affect the grievant's employment status, work assignment, educational opportunities, academic status or progress.

FAILURE TO OBSERVE TIME LIMITS

In the event the grievant fails to exhaust his/her remedies under this grievance procedure, or to abide by the time limits with respect to each step, the grievance shall be presumed to be abandoned and the matter to be settled in accordance with the District's last answer thereto. In the event the District fails to give its answer at any step within the time limits prescribed, the grievant shall have the right to

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proceed immediately to the next step. Any time limit may be extended by mutual agreement in writing from the grievant and the District.

EFFECT OF SETTLEMENT

Any settlement of a grievance shall be applicable to that grievance only and shall not be binding authority for the disposition of any other grievance.

RECORD RETENTION AND DESTRUCTION

Records of each complaint shall be filed separately from the personnel file of the employee, and shall be retained for a period of two (2) years after resolution of the case.

LEGAL REFERENCE

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq.)
- Title VII of the Civil Rights Act of 1964 (42 USC § 2000e et seq.)
- Title IX of the Education Amendments of 1972 (20 USC § 1681 et seq.)
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794)
- Title I of the Americans With Disabilities Act of 1990 (42 USC § 12101 et seq.)
- Title II of the Americans With Disabilities Act of 1990 (42 USC § 12101 et seq.)
- The Age Discrimination in Employment Act (29 USC § 621 et seq.)
- California Government Code section 11135.
- California Fair Employment and Housing Act (Gov. Code § 12900 et seq.)
- California Education Code Sections 200 through 232
- California Labor Code Section 1102.1