

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT**

The Governing Board designates the following compliance officer to receive and investigate complaints and ensure district compliance with law:

Assistant Superintendent  
Human Resources Development  
Visalia Unified School District  
5000 W. Cypress Ave.  
Visalia, CA 93277  
(559) 730-7552

The following procedures shall be followed when an employee has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her in his/her employment as specified in the district's nondiscrimination in employment policy. (See: BP 4030.)

**Definitions**

“Days” means calendar days.

**Notifications**

The Superintendent or designee shall meet the notification requirements of the California Code of Regulations, Title 5, section 4622, including the annual dissemination of district complaint procedures and information about available appeals, civil law remedies, and conditions under which a complaint may be taken directly to the California Department of Education.

**Procedures**

**1. General Procedures**

Except to the extent that these procedures conflict with any collective bargaining agreement, the following procedures shall be followed when an employee has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district’s nondiscrimination policies.

The compliance officer shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with the California Code of Regulations, Title 5, section 4632.

To the extent possible, investigations of discrimination complaints shall be conducted in a manner that protects confidentiality of the parties and the facts. (C.C.R., Title 5, section 4630.)

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

All individuals involved in a complaint shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

**2. Mediation (Optional)**

Upon receiving the complaint, the compliance officer may discuss with the complainant the possibility of using mediation. If all parties agree to mediation, the compliance officer shall make all arrangements for his process.

If the mediation process does not resolve the problem, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time.

**3. Filing of Complaint**

Any individual, public agency or organization may file a written complaint with the compliance officer. The complaint shall state the area or type of alleged noncompliance.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other handicaps, district staff shall help him/her to file the complaint.

Complaints alleging unlawful discrimination may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint must be initiated no later than six (6) months from the date when the alleged discrimination occurred or the person knew or reasonably should be known of the facts giving rise to the complaint.

**4. Investigation of Complaint**

The compliance officer shall promptly commence a thorough, objective and equitable investigation after receiving the complaint. The investigation shall provide an opportunity for the complainant and/or his/her representative to present to the district information relevant to the complaint.

To ensure that all pertinent facts are made available, the compliance officer and the complainant may ask other individuals to provide additional information.

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

**5. Written Decision**

The compliance officer shall endeavor to prepare and send to the Superintendent or designee and the complainant a written report of the district's investigation and decision within thirty (30) days. The decision shall include:

- a. The findings and disposition of the complaint, including corrective actions, if any, to the extent that the law permits the corrective action to be disclosed.
- b. The rationale for the above disposition.
- c. Notice of the complainant's right to appeal the decision to the California Department of education, and procedures to be followed for initiating such an appeal.

**6. Appeal to the Board**

If a complainant is dissatisfied with the compliance officer's decision, he/she may, within five (5) days, file his/her complaint in writing with the Board. The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. (Title 5, section 4631.) The Board may decide not to hear the complaint, in which case the decision of the compliance officer shall be the district's final written decision. If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the date the district initially received the complaint or within an extended time period that has been specified in a written agreement with the complainant.

**7. Appeals to the California Department of Education**

If a complainant is dissatisfied with the district's decision, he/she may appeal in writing to the California Department of Education within fifteen (15) days of receiving the district's decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals.

If the complainant does not timely appeal to the State Department of Education, the decision of the Board shall be final. If the complainant does appeal, the final decision shall be rendered by the Superintendent of Public Instruction.

When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the district's decision and must include a copy of the locally filed complaint and the district's decision.

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

If dissatisfied with the California Department of Education's resolution of a complaint regarding a Chapter I program, the complainant may request its review by the U.S. Secretary of Education.

Upon request, the compliance officer shall provide the complainant with a copy of Title 5, section 4652, et seq. of the regulations concerning appeal to the California Department of Education.

**8. Direct Intervention by Superintendent of Public Instruction**

The Superintendent of Public Instruction shall directly intervene without waiting for district action if one or more of the following conditions are alleged exists:

- a. Noncompliance by the district of complaint procedures.
  - b. Complainant will suffer immediate loss of some benefit, such as employment or education, if intervention does not occur. Nothing in this section gives CDE jurisdiction over employment discrimination claims.
  - c. Complaint relates to agencies other than local educational agencies funded through the Child Development and Child Nutrition Programs.
  - d. Complainant requests anonymity, accompanied with clear and convincing evidence, that retaliation exists or danger of retaliation exists.
  - e. The district failed or refuses to implement the final decision resulting from its investigation or mediation.
  - f. The district refuses to respond to the Superintendent of Public Instruction's request for information regarding a complaint.
  - g. The district takes no action within sixty (60) calendar days of the date the complaint was filed with the compliance officer.
9. For complaints relating to Special Education, the following allegations shall be conditions for direct state intervention:
- a. A public agency other than the district (as specified in Government Code section 7570, et seq.) fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to handicapped individuals.

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

- b. The district or public agency fails or refuses to comply with due process procedures or has failed or refused to implement a due process hearing order.
- c. The child or group of children may be in immediate physical danger or health, safety or welfare of a child or group of children is threatened.
- d. A handicapped pupil is not receiving the special education or related services specified in his or her Individualized Education Program (IEP).
- e. A violation of federal law governing special education, 20 U.S.C. Section 1400, et seq., or its implementing regulations, has occurred.

**10. Other Remedies**

The Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies, both federal and state, may also be available to them. This information shall be published with the district's nondiscrimination complaint procedures and included in any related notices.

Complaints to the U.S. Department of Education, Office of Civil Rights, pursuant to 504 of the ADA must be filed no later than 180 days from the date the alleged discrimination occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination. Extensions may be given for good cause.

In addition to the district's investigation and review procedures, employees may file a complaint with:

Office for Civil Rights  
50 United Nations Plaza, Rm. 322  
San Francisco, CA 94102  
(415) 556-8586

California Dept. Of Fair  
Employment and Housing  
1330 Broadway, Suite 1326  
Oakland, CA 94612  
(510) 464-4095

Equal Employment Opportunity  
Commission  
San Francisco District Office  
901 Market Street, Suite 500  
San Francisco, CA 94103  
(415) 556-9461

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

The district shall have available to it all remedies authorized by law for use in remedying a complaint.

*Legal Reference:*

CODE OF REGULATIONS, TITLE 5  
*3080 Application of Section 4600-4671*  
*4600-4671 Uniform Complaint Procedures*

Regulation  
approved: June 24, 1997  
Revised: June 22, 1999  
Revised: April 24, 2001

**VISALIA UNIFIED SCHOOL DISTRICT**  
Visalia, California