

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

The complainant shall immediately meet informally with his/her supervisor or the administrator of the school where the alleged discriminatory act occurred. A complaint regarding discrimination away from the school site should be discussed informally with the complainant's supervisor. If the complaint is resolved during the meeting, the supervisor shall submit a written summary of the complaint and a description of how the complaint was resolved to the complainant and the Coordinator for Nondiscrimination in Employment ("Coordinator" as designated by the Governing Board in BP 4030 - Nondiscrimination in Employment) within 10 working days of the meeting.

If the complaint is not resolved during the meeting, the complainant may file a formal complaint with the Coordinator within 10 working days of the meeting. 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. This report shall be made available to the Coordinator.

Level II

If the complaint is not resolved at the Level I informal meeting and the complainant decides to pursue it to the next level, the complainant shall submit the formal complaint on the district's Discrimination/Harassment complaint form to the Coordinator within 10 working days of the Level I meeting. The written complaint shall include the following:

1. The complainant's name, school or location, position, address and telephone number
2. The name and work location of the district staff member who committed the alleged violation
3. A description of the alleged discriminatory act(s) or omission(s)
4. The discriminatory basis alleged
5. A specific description of the time, place, nature, participants in and witnesses to the alleged violation(s)
6. Informal efforts made to resolve the problem
7. Individuals to whom the complaint has been communicated
8. Corrective action suggested

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9. Any other pertinent information which may assist in investigating and resolving the complaint
10. The complainant's signature or that of his/her representative

The Coordinator, or designee, shall assign a staff member to assist the complainant with this writing if such help is needed. The Coordinator, or designee, shall respond to the complaint within 15 working days. The written response shall include a written decision, the basis for the decision, notice of the employee's right to appeal to Level III, and notice of the requirement to appeal within 10 working days.

The Coordinator shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, other person(s) involved, appropriate staff members and students, and all other relevant documents. If a response from third parties is necessary, the Coordinator may designate up to 10 additional working days for investigation of the complaint and shall respond to the complaint within ten (10) working days of completing the investigation.

Level III

If the complaint cannot be resolved at Level II, either party may present the complaint to the Superintendent or designee within 10 working days. The Superintendent, or designee, shall review the Level II investigation file, including the written complaint and all responses from district staff. The Superintendent or designee shall respond to the complaint in writing within 15 working days. The written response shall include a written decision, the basis for the decision, notice of the complainant's right to appeal to Level IV, and notice of the requirement to appeal within 10 working days.

If the Superintendent or designee 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

If the complaint is not resolved at Level III, either party may file a written appeal to the Board within 10 working days after receiving the Level III response. The written appeal shall include specific reasons why the Level III response is unsatisfactory as well as a suggested remedy. The Superintendent or designee shall provide the Board with all information presented at previous levels.

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The hearing shall be scheduled for the next regular Board meeting for which the matter can be placed on the agenda. Any complaint against a district employee shall be addressed in closed session in accordance with the law. The Board shall render its decision within 15 working days. The Board's decision shall be in writing and shall include the disposition of the complaint, the basis for the decision, and notice of the employee's right to appeal to the California Department of Education (CDE).

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 9321 - Closed Session Purposes and Agendas)

Other Remedies

As noted, complainants may appeal the Board's action to the CDE. 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
 2001d-2001d-7 Title VI, Civil Rights Act of 1964
 2001e-2001e-17 Title VII, Civil Rights Act of 1964 as amended
 2001h-2-2001h-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

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>

MT. DIABLO UNIFIED SCHOOL DISTRICT
DISCRIMINATION/HARASSMENT COMPLAINT FORM

E 4031

Date _____

Your name _____

Your school and/or location _____

Position _____

Place where you may be reached _____

Address _____

Phone _____

Name of person(s) against whom complaint is made _____

Describe in detail the nature of your complaint. (In what way have you been adversely affected? Include all facts, names, dates, and places necessary for a complete understanding of your complaint. Use additional pages if necessary).

List all witnesses or other individuals who you believe can corroborate the allegations made in this complaint.

Have you made an effort to resolve this problem informally? Yes _____ No _____

To whom have you spoken? _____

When? _____

What was the result of the discussion? _____

List all individuals to whom you have communicated your complaint, either verbally or in writing, and the approximate date(s) of such communication(s).

Describe any corrective action you feel should be taken with regard to this complaint.

Submit/attach copies of all documentary or other physical evidence in your possession which supports your claim. If you are not in possession of such evidence, describe it to the best of your ability and list those persons who are in possession of it.

Signature of Complainant

Signature of Person Receiving Complaint

Date Received