

## COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

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. Individuals who have complaints alleging sexual harassment shall utilize those policies and complaint procedure.

1. The complaint must be initiated within 60 calendar days after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The complainant also shall be notified of his/her right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the District determines least likely to interfere with school schedules and operations.
5. For the protection of the complainant and the District, complaint proceedings shall be kept confidential within legal constraints.
6. All documents, communications and records dealing with the complaint shall be maintained in a unique District file and logged as appropriate.
7. No retaliation shall be taken in any form for filing of a complaint, reporting instances of discrimination, or for participation in the complaint process. Such participation shall not in any way affect the status or work assignments of the complainant.
8. Time limits specified in these procedures may be revised only by written mutual agreement of the parties. If the District fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next level within the prescribed time, the complaint shall be considered settled at the preceding level.

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(continued)

### **Level I**

The complaint should be discussed informally with the principal or administrator having oversight responsibility for the program or personnel where the alleged discriminatory act occurred. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the principal or administrator shall prepare, within 10 calendar days, a written summary of his/her meeting(s) with the complainant. This report shall be forwarded to the nondiscrimination officer.

If the complaint is deemed to have merit, the principal or administrator will attempt to resolve the complaint with the parties.

Resolution of the complaint through this procedure by mutual agreement of the participants will close the issue.

### **Level II**

If a complaint cannot be resolved at Level I, the complainant may submit a formal written complaint to the District Uniform Complaint Officer within 10 calendar days of his/her attempt to resolve the complaint informally. The written complaint shall include the following:

1. The complainant's signature or that of his/her representative.
2. The complainant's name, address and telephone number.
3. The name and address of the District staff member who committed the alleged violation.
4. A description of the allegedly discriminatory act(s) or omission(s).
5. A specific description of the time, place, nature, participants in and witnesses to the alleged act(s) or omission(s).
6. Other pertinent information which may assist in investigating and resolving the complaint.

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The Uniform Complaint Officer shall assign a staff member to assist the complainant with this writing if such help is needed. The officer shall respond to the complainant in writing within 10 calendar days.

The Uniform Complaint Officer shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I response and all other relevant documents. If a response from third parties is necessary, the Uniform Complaint Officer may designate up to 10 additional calendar days for investigation of the complaint.

### **Level III**

If the complaint cannot be resolved at Level II, the complainant may present the complaint to the Superintendent or designee within 10 calendar 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 complainant in writing within 10 calendar days.

If the Superintendent or designee finds it necessary to conduct further investigation, he/she may designate up to 10 additional calendar days for such investigation and shall respond to the complainant in writing within 10 calendar days of completing the investigation.

### **Level IV**

If the complainant is not satisfied with the resolution at Level III, he or she has 10 calendar days from the date of the letter containing the Level III findings to request in writing an appeal to the Board of Trustees.

The Board shall grant the hearing request for the next regular Board meeting for which it can be placed on the agenda. Any complaint against a District employee shall be conducted in closed session as a personnel matter. The Board shall render its decision within 10 calendar days after the hearing.

Instead of conducting a hearing, the Board may appoint a hearing officer to review the complaint and previous decisions and make recommendations to the Board. The Hearing Officer shall hear the appeal and render its recommended decision within 10 calendar days.

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### Other Remedies

Complainants may appeal the District's action to the California Department of Education. 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

*200-262.3 Prohibition of discrimination*

GOVERNMENT CODE

*12920-12921 Nondiscrimination*

*12940-12948 Discrimination prohibited; unlawful practices, generally*

TITLE VI, CIVIL RIGHTS ACT OF 1964

TITLE VII, CIVIL RIGHTS ACT OF 1964

TITLE IX, EDUCATION AMENDMENTS OF 1972

SECTION 504, REHABILITATION ACT OF 1973

AGE DISCRIMINATION ACT OF 1975

AMERICANS WITH DISABILITIES ACT

Policy

revised: June 14, 1999

revised: August 9, 2000

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revised: July 27, 2011

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

San Juan Capistrano, California