

## **NONDISCRIMINATION IN EMPLOYMENT**

All allegations of discrimination in employment, including those involving an intern, volunteer, or job applicant, shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

The Monterey County Superintendent of Schools (County Superintendent) designates the Chief Human Resources Officer as its coordinator for nondiscrimination in employment (coordinator) to coordinate the Monterey County Office of Education's (MCOE / County Office) efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the MCOE's nondiscrimination policies. The coordinator may be contacted at:

901 Blanco Circle  
P.O. Box 80851  
Salinas Ca. 93912-0851  
(831) 784-4195

### **Measures to Prevent Discrimination**

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

1. Publicize MCOE'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] (Compliance Officer)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment (Recruitment Specialist)
  - b. Posting them in all schools and offices, including staff lounges and other prominent locations (Compliance Officer)
  - c. Posting them on the MCOE website (Communications Officer)
2. Disseminate the MCOE nondiscrimination policy to all employees by one or more of the following methods: [2 CCR 11023]
  - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return
  - b. Sending the policy via email with an acknowledgment return form
  - c. Posting the policy on the intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies

- d. Discussing the policy with employees upon hire and/or during a new hire orientation session
  - e. Any other way that ensures employees receive and understand the policy
- (cf. 4112.9/4212.9/4312.9 - Employee Notifications)*
3. Provide access to employees a handbook that contains information that clearly describes MCOE's nondiscrimination policy, procedures for filing a complaint, and resources available to anyone who feels that the employee has been the victim of any discriminatory or harassing behavior.
  4. Provide training to employees, volunteers, and interns regarding MCOE's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made.

Training for supervisors shall include the requirement to report any complaint of misconduct to a designated representative, such as the coordinator, senior director of human resources, or County Superintendent or designee as a topic in the sexual harassment prevention training required pursuant to 2 CCR 11024 [2 CCR 11023].

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

5. Periodically review the MCOE recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure MCOE compliance with law.

## Complaint Procedure

Any 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 their direct supervisor, another supervisor, the coordinator, or the County Superintendent.

The complainant may file a written complaint in accordance with this procedure, or if the person is an employee, may first attempt to resolve the situation informally with their supervisor.

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, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 4032 - Reasonable Accommodation)*

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 the MCOE'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 employee shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

*(cf. 3580 - District Records)*

*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

If the coordinator determines that a detailed fact-finding investigation is necessary, the employee shall begin the investigation 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 their investigation or to protect employee safety, the coordinator may discuss the complaint with the County Superintendent or designee, or legal counsel.

The coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents are prevented. 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 their 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 also shall 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 complainant, the person accused, and the County Superintendent or designee.

4. **Appeal to the County Superintendent:** The complainant or the person accused may appeal any findings to the County Superintendent within 10 business days of receiving the written report of the coordinator's findings. The coordinator shall provide the County Superintendent with all information presented during the investigation. Upon receiving an appeal, the County Superintendent shall schedule a hearing as soon as practicable. Any complaint against a County Office employee shall be addressed in accordance with law. The County Superintendent shall render its decision within 10 business days.

*(cf. 1312.1 - Complaints Concerning District Employees)*

### **Other Remedies**

In addition to filing a discrimination or harassment complaint with the MCOE, a person may file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) [42 USC 2000e-5]
3. To file a valid 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]