



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: Non-Discrimination And Anti-Harassment (Including Sexual Harassment) Policy And Complaint Procedure

NUMBER: BUL-6612.1

ISSUER: David Holmquist, General Counsel
Office of the General Counsel

DATE: January 30, 2019

ROUTING
All Employees
All Schools

POLICY: The Los Angeles Unified School District is committed to maintaining a working and learning environment that is free from all forms of discrimination, harassment and retaliation of or by employees, supervisors, students, persons doing business with the District, persons who provide services to the District pursuant to a contract or members of the public.

As a District at all levels, we are committed to creating and maintaining an environment conducive to maximum productivity and respect for human dignity. Workplace harassment destroys teamwork and negatively affects the work environment. A harassment-free work environment creates the foundation for success for all employees and the students our District serves.

This Policy prohibits unlawful discrimination and harassment on the basis of race, gender/sex (including gender identity, gender expression, pregnancy, childbirth, breastfeeding, and pregnancy related medical conditions), sexual orientation, religion, color, national origin (including language use restrictions and possession of a driver’s license issued under Vehicle Code section 12801.9), ancestry, physical or mental disability(including clinical depression and bipolar disorder, HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, multiple sclerosis, and heart disease), medical condition (cancer-related and genetic characteristics), military and veteran status, marital status, registered domestic partner status, age (40 and above), genetic information, political belief or affiliation (not union related), or any other basis protected by federal, state or local law, ordinance, or regulation. Additionally, the District prohibits retaliation against an individual who engages in legally protected conduct, such as making a good faith complaint of harassment or discrimination

MAJOR CHANGES: This bulletin updates and replaces Bulletin No. 6612.0 issued by Human Resources on November 10, 2015. This revision contains updated information regarding the related resources listed. This revision also reflects current state and federal requirements and provides guidance and procedures for investigating complaints of discrimination and harassment.



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GUIDELINES: The following guidelines apply.

I. DEFINITIONS

Complaint as it relates to this policy shall mean allegations of workplace discrimination and/or harassment in violation of federal, state, or local laws or District Equal Employment Opportunity policies. A Complaint under this policy covers allegations of workplace discrimination or harassment based upon an individual's race, gender/sex, gender identity, gender expression, pregnancy, childbirth, breast feeding, and pregnancy related medical conditions, actual or perceived sexual orientation, religion, color, national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), ancestry, physical or mental disability (including clinical depression and bipolar disorder, HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, multiple sclerosis, and heart disease), medical condition (cancer-related and genetic characteristics), military and veteran status, marital status, registered domestic partner status, age (40 and above), genetic information, political belief or affiliation (not union related), or any other basis protected by federal, state or local law, ordinance, or regulation ("Protected Categor(ies)," as discussed below). Complaints also can mean allegations about retaliation for making a complaint or participating in an inquiry about discrimination and/or harassment based on a Protected Category.

For purposes of this policy, complaint does not include:

- Allegations concerning conduct not based on a Protected Category;
- Allegations based on union affiliation/activity;
- Allegations falling within the purview of the Office of the Inspector General
- Workplace Violence, Bullying, and Threats not based upon a Protected Category as defined below (Please refer to Bulletin 5610.0 dated September 30, 2011); or
- Requests for a reasonable accommodation under Section 504 of the Rehabilitation Act of 1973, the Fair Employment and Housing Act and/or the Americans with Disabilities Act (Please refer to Bulletin No. 4569.1 dated June 9, 2014). However, a complaint alleging a failure to accommodate or engage in the interactive process is within the purview of the Equal Opportunity Section.

Complainant shall refer to an employee, former employee or individual performing work for the District who files a complaint alleging a violation of this policy or non-discrimination and anti-harassment laws, regulations, or ordinances against another



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employee or nonemployee. A Complainant may be the subject of the alleged harassment or discrimination, or may be a third-party observer of the alleged harassment or discrimination. A Complainant may also be an individual alleging to have been subjected to retaliation for engaging in protected activity. A Complainant can also be a person providing services pursuant to a contract with the District.

Equal Opportunity Section (EOS) shall refer to the internal District office designated by the District to formally investigate complaints of discrimination or harassment. EOS is responsible for the administration of the District's equal opportunity policies and programs, including the Investigation of discrimination and harassment complaints that have been filed with a state or federal agency, or those complaints filed internally, which cannot be resolved at the site level. EOS is also responsible for maintaining an online Investigation tracking database which enables it to contemporaneously monitor an Investigation at the site level

Investigation shall refer to an official inquiry and systematic examination of the allegation(s) in order to make a determination as to the merits of the complaint. The investigation is not governed by the strict rules of evidence, cross-examination, or civil discovery rules. Its purpose is to provide a fair and expeditious administrative review of complaints.

Protected Category(ies) shall refer to race, gender/sex (including gender identity, gender expression, pregnancy, childbirth, breastfeeding, and pregnancy related medical conditions), sexual orientation, religion, color, national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), ancestry, physical or mental disability(including clinical depression and bipolar disorder, HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, multiple sclerosis, and heart disease), medical condition (cancer-related and genetic characteristics), military and veteran status, marital status, registered domestic partner status, age (40 and above), genetic information, political belief or affiliation (not union related), or any other basis protected by federal, state or local law, ordinance, or regulation. Individuals who belong to, are perceived to belong to or associate with someone who belongs to a Protected Category are protected from discrimination and harassment based on a Protected Category.

Respondent shall refer to the individual (e.g., the supervisor, co-worker, non-employee third parties, including parent, applicants, paid or unpaid interns, volunteers, independent contractors or vendors) alleged to have committed acts in violation of this policy or non-discrimination and anti-harassment laws, regulations, or ordinances.



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II. UNDERSTANDING DISCRIMINATION

Harassment based on a Protected Category by or of anyone conducting work or business for or with the District is strictly prohibited by law and a violation of this policy.

Prohibited discriminatory or harassing acts or behaviors include, but are not limited to, the following:

1. Verbal conduct (e.g., suggestive, insulting or derogatory comments, epithets, innuendoes, sounds, whistling, jokes, teasing or slurs) based on any Protected Category, and sexual proposition or threats.
2. Physical conduct (e.g., assault, impeding or blocking movement, or any unwanted physical contact or interference with normal work or movement, including touching, pinching, brushing the body, hugging, pushing, shoving), contact or assault when directed at an individual because of any Protected Category.
3. Nonverbal conduct (e.g., leering, staring, and obscene gestures) based on any Protected Category. Display of signs, pictures, cartoons, written statements, e-mails, internet messages or postings, or other material that denigrates or discriminates against anyone based on any Protected Category.
4. Social Media conduct based on any Protected Category
5. Unwanted sexual advances; threats or demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment or some other contract benefits in return for sexual favors.
6. Any other unwelcome conduct based on a Protected Category.
7. Retaliation for having reported or threatened to report harassment and/or or discrimination.
8. Sexual Harassment, as defined by the California Education Code section 212.5 and Title 5 of the California Code of Regulations section 4916, including unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature made by someone from or in the work or educational setting, whether it occurs between individuals of the same sex or individuals of opposite sexes, under any of the following conditions:



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- Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress.
- Submission to, or rejection of, the conduct by an individual is used as a basis of employment or academic decisions affecting the individual.
- The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or creating an intimidating, hostile, or offensive work or educational environment.
- 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 work or the educational institution.

Sexual Harassment encompasses any unwelcome conduct based on sex, including on the basis of gender, gender identity, gender expression, sexual orientation, pregnancy, childbirth and related medical conditions and breastfeeding/lactation. Sexual harassment need not be motivated by sexual desire.

For questions relating to expressing breastmilk at work, please refer to BUL-6689.0, Lactation Accommodations for Employees, dated May 17, 2016.

All forms of Sexual Harassment are prohibited.

9. Indirect Harassment. In addition to direct discrimination or harassment, an individual may also be subject to discrimination or harassment based upon actions that were not directed at or intended for that person. Examples of indirect discrimination or harassment include, but are not limited to:
 1. Third Party Harassment – When two (or more) persons engage in behavior which offends a third party who is being subjected to the other's behavior and the behavior is based on any of the Protected Categories or sexual in nature, resulting in the third party being harassed based on such unwelcome behavior.
 2. Paramour Favoritism – When a supervisor engages in a consensual sexual relationship with a subordinate and the supervisor rewards the subordinate with job advantages (e.g., overtime work, better shift, promotion, etc.) which are unjustified and not legitimate, others who do not receive such job advantages may be subjected to a hostile work environment based on sex.
10. Discrimination and harassment are not limited to conduct between two or more employees. Any discrimination or harassment based upon any of the Protected



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Categories by non-employees, such as applicants, interns, independent contractors, vendors, parents or students, is also unlawful under federal and state law and prohibited by this Policy. Likewise, discrimination or harassment based on any of the Protected Categories toward non-employees performing work for the District is also prohibited. In cases involving conduct of nonemployees, the extent of the District's control and any other legal responsibility which the District may have with respect to the conduct of those nonemployees shall be considered.

III. OBLIGATIONS OF INDIVIDUALS PERFORMING WORK FOR THE DISTRICT

As role models to students, individuals performing work for the District are expected to carry out their duties and responsibilities in a manner which is free from discriminatory or harassing conduct.

Each individual performing work for the District has the obligation to:

1. Not engage in any conduct which constitutes discrimination, harassment and/or retaliation prohibited by this Policy.
2. Report any incidents of discrimination or harassment to the site administrator, designee, or that person's immediate supervisor.
3. Encourage anyone subjected to discrimination or harassment to report such an incident.
4. Cooperate with the District's efforts to eliminate and prevent discrimination and harassment.
5. Cooperate in any investigation of a Complaint or discrimination or harassment.
6. Guard against any actions that would be considered retaliatory against another employee or others who have filed or is participating in an investigation of a Complaint of discrimination or harassment.

Any individual performing work for the District who engages in or permits unlawful discrimination or harassment shall be subject to disciplinary action up to and including dismissal

A District employee or non-employee shall be deemed to have permitted unlawful discrimination or harassment if the individual fails to take remedial action and/or report an observed incident of discrimination or harassment, regardless of whether the alleged victim of harassment complains.



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IV. REPORTING DISCRIMINATION OR HARASSMENT

Anyone performing work for the District who witnesses or experiences conduct they perceive as harassing, discriminatory, retaliatory, or otherwise inconsistent with this Policy must immediately report the matter by way of submitting a complaint. While an oral complaint may be submitted, a written complaint is preferred to ensure a proper investigation and outcome. Complaints should be made in writing utilizing the Employment Discrimination/Harassment Complaint Form (Attachment A). Important information to include in the complaint includes:

- the facts of the incident or incidents;
- the dates the incidents occurred;
- the names of the individuals involved; and
- the names of any witnesses

The complaint should be submitted to the site administrator designee, or his or her immediate supervisor. Complaints can also be made using the District's Equal Opportunity hotline by calling (213) 241-7676. Alternatively, the District's Equal Opportunity Section can be reached by calling (213) 241-7685.

If a complaint concerns the site administrator, then the complaint should be made to the Local District or via the Equal Opportunity hotline at 213-241-7676. Complaints relating to conduct of high-level District supervisors or members of the Board of Education should be made to the Local District or via the Equal Opportunity hotline at 213-241-7676. Individuals who are represented by a union are welcome to seek the assistance of a union representative in reporting any violation of this policy. Individuals performing work for the District who perceive they are being treated disrespectfully or subjected to workplace harassment that is not based upon a Protected Category should report it to their site administrator.

Individuals performing work for the District who perceive they are being subjected to workplace harassment by a District student is advised to take every precaution to preserve the dignity of the student and consult with school counseling staff concerning the most appropriate approach under the particular set of circumstances.

Under the following situations, a complainant may bypass the site administrator, designee, or that person's immediate supervisor and file a complaint directly with EOS:

1. If the respondent is the site administrator; designee the Complainant's immediate supervisor or a member of the Board of Education;
2. The complaint concerns alleged conduct of an especially high profile or sensitive nature;



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3. The Complainant is not comfortable making a complaint to the site administrator, designee, or that person's immediate supervisor; or
4. The Complainant believes that the site administrator, designee, or that person's immediate supervisor has not adequately investigated or addressed the complaint.

The District encourages individuals performing work for the District to report any incidents of discrimination or harassment forbidden by this policy immediately so that complaints can be quickly and fairly resolved

A complaint of discrimination or harassment must be filed immediately or as soon as reasonably possible following the alleged discrimination or harassment, but no later than twelve (12) months following the last alleged discriminatory or harassing act, except in extenuating circumstances.

The District will not tolerate retaliation in any form against a Complainant for the filing of a complaint, for opposing District actions, or reporting or threatening to report such actions, or for participating in an investigation. The District, however, does not condone fabrication of allegations of discrimination or harassment. Making false allegations of discrimination and harassment may result in discipline.

If you have any questions concerning this Policy, please feel free to contact EOS at (213) 241-7685.

V. RESPONDING TO COMPLAINTS

When a complaint of discrimination or harassment is received, it shall be given immediate attention.

All supervisors who receive complaint of discrimination, harassment, or retaliation, or who observe conduct that violates or may violate this policy, must immediately investigate the matter (or refer the Complaint to EOS, only where appropriate).

Complaints of discrimination or harassment shall be handled in a confidential manner, respecting the privacy of all parties to the fullest extent possible. Every attempt shall be made to limit the distribution of information to those persons with a need to know within the confines of the District's reporting procedures and the investigative process.

1. Site Administrator, Designee, and Immediate Supervisor Received Complaints

If and when possible, complaints should be addressed at the work site. Supervisors who become aware of potentially discriminatory or harassing behavior must take



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immediate action by conducting an investigation and taking any appropriate corrective action.

A complaint may be referred to EOS when appropriate and a complaint that alleges that the site administrator, designee, or Complainant's immediate supervisor engaged in the discriminatory or harassing conduct must be directed to EOS. If the Complainant is not satisfied with the results reached at the site level, he or she may present the complaint to EOS, who will then investigate the allegations. The following steps should be followed to achieve complaint resolutions at the work site level:

1. Open and maintain a matter in EOS's online investigation tracking database so that EOS can contemporaneously monitor the investigation as it is conducted. With each step of the investigation, submit updates into the database and upload relevant documents and notes.
2. Assure the Complainant that the District takes allegations of discrimination or harassment seriously, will not tolerate such treatment, and has strong policies against discrimination and/or harassment.
3. Maintain impartiality throughout the investigation until such time as the investigation is completed.
4. Obtain specific information relevant to the complaint such as where and when the incident(s) occurred, were there any witnesses, and did the incident(s) take place once, or, if more often, how often. Request that a written statement be made. In cases involving the conduct by a student or other minor, the age of the child shall be considered and any statement shall be age appropriate. Any oral report of discrimination or harassment, however, is to be considered a complaint and must be addressed.
5. Interview the Complainant and explain the options available to resolve the situation. Encourage the Complainant to provide as much detail as possible, taking special care to avoid appearing as though you are attempting to dissuade the Complainant from filing a claim. Write down details concerning the complaint.
6. Provide the Complainant with assurances regarding confidentiality and non-retaliation.
7. Explain to the Complainant that the Complainant will not be required to confront the Respondent. If the Complainant desires an informal resolution, assist with the process; however, the Complainant shall never be made to



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- confront the Respondent unless the Complainant consents and reprisal or intimidation is unlikely.
8. Take interim remedial measures, pending investigation, to ensure that the alleged harassment ceases.
 9. Assure the Complainant that steps will be taken to check that the alleged discriminatory or harassing conduct does not continue. Provide the individual with the names of District personnel who can help if the situation continues, escalates, or arises again.
 10. Interview any witnesses identified by the Complainant and provide the same assurances regarding confidentiality and non-retaliation to the witnesses
 11. Interview the Respondent and provide the same assurances as above. The Respondent should be interviewed and informed of whatever actions or activities Respondent was alleged to have committed that were offensive to the Complainant.
 12. Interview any witnesses identified by the Respondent and provide the same assurances as above.
 13. Provide all parties, including Respondent, with copies of this policy and any other relevant and appropriate District policies, brochures, and bulletins.
 14. Make a credibility assessment of each witness interviewed, including the Complainant and Respondent.
 15. Make a determination, when possible, regarding whether the alleged conduct has occurred and whether the alleged discrimination or harassment is based upon a Protected Category and in violation of this policy. Although the alleged conduct may not rise to the level of discrimination or harassment in violation of this policy, the alleged conduct may still be considered inappropriate behavior and may require that corrective/disciplinary actions be taken.
 16. If a determination is made that the alleged conduct occurred, whether or not a violation of this policy, appropriate action must be taken against all parties determined to have engaged in the inappropriate conduct to ensure that the inappropriate conduct does not recur. Corrective action may include the initiation of disciplinary proceedings or simply providing additional training to further educate the necessary parties about appropriate workplace behavior.



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17. Inform the Complainant in general terms that corrective actions have been or will be required to resolve the complaint. Specific personnel/academic corrective actions are to be kept confidential.
 18. Periodically follow-up and verify with the Complainant that the conduct has ceased and that no further inappropriate conduct has occurred.
 19. Periodically follow up and verify with the Complainant that the action taken did stop the harassment and did remedy the complaint.
 20. Document the steps taken to resolve the complaint and any action taken in monitoring or following up to assess the effectiveness of the remedies put in place.
 21. Maintain a separate investigation file for each complaint. Access to these records is to be restricted to those individuals who have a legitimate need for such access. These records must be kept indefinitely and at least during the duration of the employment of the Complainant and Respondent.
 22. Take complete and accurate notes throughout the investigation.
 23. Complete the investigation within approximately 90 (ninety) days of receipt of the Complaint to the extent practicable, possible and appropriate under the circumstances.
2. Complaints Received by EOS

A complainant may bypass the site administrator, designee, or that person's immediate supervisor and file a complaint directly with EOS:

1. If the Respondent is the site administrator, designee, the Complainant's immediate supervisor, a high-level District supervisor or a member of the Board of Education;
2. The complaint concerns alleged conduct of an especially high profile or sensitive nature;
3. The Complainant is not comfortable making a complaint to the site administrator, designee, or that person's immediate supervisor; or
4. The Complainant believes that the site administrator, designee, or that person's immediate supervisor has not adequately investigated or addressed the complaint.



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5. A site administrator may also refer a complaint to EOS where appropriate.

1. Investigatory Role of EOS

The role of the EOS Investigator is to determine violation(s) of this policy only. EOS will conduct an impartial investigation and work to resolve the matter by taking appropriate action, which may result in disciplinary or other remedial measures up to and including termination.

2. EOS Intake Procedure

Upon receipt of the verbal or written complaint (preferably by completing Employment Discrimination/Harassment Complaint Form (Attachment A)), EOS shall review the complaint to determine the initial timeliness, validity and thoroughness of the information submitted in the complaint. Untimely complaints shall be closed. EOS shall inform the Complainant in writing of the acceptance of the complaint for investigation within ten (10) working days of its receipt. The Complainant shall be promptly notified if further information or documentation is required to support the complaint. EOS will provide the complainant with a written acknowledgement of receipt of the complaint which:

- a) Advises and assures the Complainant that confidentiality of the facts will be observed to the fullest extent possible.
- b) Advises and assures the Complainant that the District prohibits retaliation against anyone who files a good faith Complaint of harassment, discrimination or retaliation or participates in an investigation.
- c) Advises the Complainant that the Complainant should feel free to call or send any additional information relevant to the complaint.
- d) Advises the Complainant if Complaint does not have a basis in the Protected Categories.
- e) Informs the Complainant that a written summary of findings will be provided to the Complainant at the conclusion of the investigation.
- f) Advises that specific corrective actions with regard to employees are to be kept confidential and/or handled at the local district level.



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This Complaint procedure shall not apply if the allegations of the complaint fall solely within the purview of matters covered by a collective bargaining agreement.

3. EOS Investigation

The Investigation shall consist of an official inquiry and systematic and timely examination of the allegation(s), pattern and practices, pertinent documents, witness interviews, and an assessment of credibility in order to make a determination as to the merits of the complaint. EOS has the role of fact finder and is not the representative of any of the individuals involved in the complaint.

The scope of the investigation shall include all of the allegations cited in the complaint and that which is reasonably related to the complaint, which are within the purview of EOS and construed to effectuate the purposes of this policy.

The Complainant and/or the Respondent may at any point in the procedure be accompanied and represented by another individual. This normally includes representation by the relevant union representative, but Complainant and/or the Respondent may choose an appropriate alternative representative. EOS is entitled to consider whether a requested representative is appropriate, and make alternate arrangements if it is deemed that the requested representative's presence may impact the integrity of the investigation, create a conflict of interest, or infringe on the privacy rights of those named in the complaint.

Parties involved in the complaint, as well as any witness, may be allowed release time (without loss of pay) to attend meetings or interviews held during assigned duty time with EOS personnel investigating the complaint.

The District may retain the of a third party investigator where necessary or appropriate. The District will document and track the complaint, investigation and outcome.

4. Investigation/Complaint Conclusion

EOS will complete the investigation within approximately 60 days of receipt of the complaint to the extent practicable, possible and appropriate under the circumstances.

An EOS investigation/complaint can result in various outcomes, including but not limited to the following:

a. Investigative Findings

Customarily, EOS will reach a reasonable conclusion based on the evidence collected during the investigation. EOS may issue one of the following:



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- “Substantiated Finding”- meaning that the EOS has determined that the allegations in the complaint are based upon credible evidence to constitute a violation of this policy. A “Substantiated Finding” does not necessarily mean that any law has been violated. A “Substantiated Finding” shall be issued in writing to the Complainant, Respondent and the appropriate site administrator, district superintendent, branch or division head and Office of Staff Relations.

A “Substantiated Finding” shall also result in appropriate administrative and/or disciplinary action(s), including but not limited to termination, and a copy of the finding shall be placed in the personnel folder of the Respondent. A Respondent may also be subject to other appropriate remedial measures, including transfer, reassignment, training, testing, posting of notices, and any other actions necessary to ensure that no further violations of this policy occur.

- “Unfounded Finding”- meaning that EOS has determined that the allegations in the complaint are either false, inherently improbable, no evidence was provided through witnesses to support the claim, the complaint could not be substantiated by the evidence, or the allegations do not constitute a violation of the District’s policy on non- discrimination and anti-harassment. An “Unfounded Finding” shall be issued in writing to the Complainant, Respondent, and the appropriate site administrator, district superintendent, or unit division head.

A closure letter will be provided to the Complainant outlining the manner in which the investigation/complaint concluded, including a report of the findings if any, and emphasizing the confidential nature of the investigation/complaint process and reiterating the District’s non- retaliation provisions of this policy. The closure letter should also advise the Complainant of the Complainant's right to appeal the EOS decision.

b. Withdrawal

The complaint, or any part thereof, may be withdrawn by the Complainant at any time during the investigation. The request for withdrawal must be submitted in writing to the EOS by the Complainant. Please note, regardless of the withdrawal of the complaint, if the District has a legal duty to investigate, the District may continue the investigation.

c. Uncooperative Complainant

While the investigation will be based on the sufficiency of the evidence and not the responsiveness of the Complainant, where a Complainant is uncooperative (failure to respond, to keep appointments, to cooperate with the EOS investigator, or to provide



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requested documentation (if available) or information), it may make it difficult for EOS to complete the investigation. Without appropriate access to relevant information, EOS may be forced to close the investigation based on insufficiency of evidence.

d. Agency Filing

In the event that the Complainant files a formal charge of discrimination with the Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC), the District may close the internal investigation and respond to the DFEH or EEOC. The parties and appropriate supervisory officials shall be notified of the closure of the internal investigation following receipt of an external agency complaint.

e. Settlement

If, during the investigation of the complaint, a settlement is reached between District management and the Complainant, a Settlement Agreement shall be reduced to writing and approved by the EOS Director, before the Complaint shall be considered closed. The Settlement Agreement must be signed by both the Complainant and the appropriate District management official.

f. Appeals

Either the Complainant or Respondent has the right to appeal EOS's decision by filing an appeal with the Local Superintendent or division administrator. The appeal must be in writing and received by the Local District Superintendent, or division administrator or such other office that may be designated by the Superintendent, within fifteen (15) working days of the Complainant's receipt and/or Respondent's receipt of the closure letter by EOS.

The acceptable issues for appeal are: bias of the investigator, new evidence that was not previously considered; or failure to follow procedures that substantively alter EOS' investigative findings. The appeal need not be an evidentiary hearing.

The designee shall review the matter and issue a written decision to the parties concerned. The decision of the reviewer shall be the District's final response.

VI. TRACKING AND REPORTING COMPLAINTS/INVESTIGATIONS

EOS is responsible for capturing fact-based and statistical data concerning each of its own and any external investigations it oversees.



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EOS is also responsible for maintaining an online investigation tracking database, via the Case/CRM system, by which it will contemporaneously monitor investigations conducted at the site level.

When a supervisor commences an investigation at the site level, he or she is required to open and maintain a matter in EOS's online investigation tracking database, enabling EOS to contemporaneously monitor the investigation. With each step of the Investigation, the site supervisor must submit updates into the database and upload relevant documents and notes.

EOS will provide the Board of Education with statistical and fact-based quarterly reports concerning the status of all investigations

VII. REQUIRED TRAINING

A. Workplace Harassment Prevention Training

Consistent with California's Senate Bill 1343, every two years, all employees are required to take effective interactive training regarding the prevention of workplace harassment and abusive conduct (non-supervisors are required to take at least one hour of training; supervisors are required to take at least two hours of training within six months of assuming a supervisory position and every two years thereafter).

The District offers both on-line and live training options which fulfill this training requirement. Please consult the Office of Organizational Excellence concerning on-line training and its catalog of live trainings. You may also consult the Office of General Counsel, Labor and Employment Services team to schedule a live training specifically tailored to your team.

B. Workplace Harassment/Discrimination Investigation Training

District supervisors are also required to take interactive training regarding conducting effective Investigations every two years. The Office of General Counsel, Labor and Employment Services team provide these trainings at Local District Principals meetings, via the Office of Organizational Excellence and upon request.

VIII. RETALIATION PROHIBITED

It is unlawful to discipline, retaliate, harass, or otherwise discriminate against an employee because that person has opposed unlawful employment practices, filed a complaint of employment discrimination or harassment, or testified or assisted in an investigation of a discrimination or harassment complaint. The District prohibits any form of retaliation against an employee for:



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- Reporting discrimination or harassment;
- Submitting a report or helping another to submit a report pursuant to this policy;
- Requesting a reasonable accommodation for a mental or physical disability, pregnancy, or religious belief;
- Opposing any conduct or practice that the employee reasonably and in good faith believes to be unlawful or contrary to this policy;
- Assisting or participating in an investigation; or
- Filing a complaint with a government agency or participating in an investigation, proceeding, or hearing concerning discrimination or harassment.

Retaliation is a serious violation of this policy, and incidents of retaliation must be reported immediately.

IX. POSTINGS/PUBLISHING

The federal EEOC poster titled “Equal Employment Opportunity Is The Law” (<http://www1.eeoc.gov/employers/poster.cfm>) and the State DFEH poster titled “Harassment or Discrimination in Employment” (<http://www.dfeh.ca.gov/res/docs/publications/DFEH-162.pdf>) must be posted in English and Spanish. The posters summarize protections against discrimination on the basis of race, color, religion, national origin, age (40 and above) medical condition (cancer/genetic characteristics), disability (mental, physical, and pregnancy-related) including HIV and AIDS, denial of pregnancy disability leave or reasonable accommodation, sex, sexual orientation, marital status, and status as Vietnam-era veteran or special disabled veteran.

A copy of the District’s Nondiscrimination Statement and Sexual Harassment Policy posters must also be posted in a “conspicuous” location where notices to applicants, employees, and parent volunteers customarily are posted.

A copy of the District’s one page summaries Nondiscrimination Statement and Sexual Harassment Policy, which can be found on the District’s website, shall be included in any school or District publication (e.g. Local School Handbook) that sets forth the school’s or District’s comprehensive rules, regulations, procedures, and standards of conduct.

X. FURTHER OPTIONS FOR ADDRESSING DISCRIMINATION OR HARASSMENT



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1. State and Federal Agencies

Individuals performing work for the District have the right to file a complaint with the state or federal equal employment enforcement agencies:

State – Department of Fair Employment & Housing (DFEH)
611 West Sixth Street, Suite 1500
Los Angeles, CA 90017
(213) 439-6799

Federal – Equal Employment Opportunity Commission (EEOC)
255 East Temple Street, Fourth Floor,
Los Angeles, CA 90012
(213) 894-1000 or (800) 669-4000

2. Civil Law Remedies

The DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If the DFEH finds sufficient evidence to establish that a violation occurred and settlement efforts fail, the DFEH may file a lawsuit. Individuals performing work for the District also may pursue the matter through a lawsuit after a complaint has been filed with DFEH and a right-to-sue notice has been issued.

Remedial measures available, through either the District or the DFEH, for someone harmed by discrimination, harassment, or retaliation may include reinstatement, back pay, reimbursement of out-of-pocket expenses, hiring, transfer, reassignment, promotion, cease and desist orders, posting of notices, training, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct a violation.

AUTHORITY: This is a policy of the Office of the General Counsel. The following legal standards are applied in this policy:

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*
California Fair Employment & Housing Act (FEHA), Government Code § 12940, *et seq.*

California Domestic Partner Rights and Responsibilities Act of 2003
California Education Code, §212.5 Sexual Harassment, and §48900.2

Grounds for suspension

Pursuant to the California Education Code, Sections 48980(h) and 231.5, a copy of the District's non-discrimination and anti-harassment policy shall:



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

Be included in the notifications that are sent to parents/guardians at the beginning of each school year. (The “Parent-Student Handbook” may be used to provide these notifications).

Be displayed in a prominent location in the main administrative building, staff lounge, or other area of the campus or school site. “Prominent location” means that location where notices regarding rules, regulations, procedures, and standards of conduct are posted.

RELATED RESOURCES:

BUL-5798.0, Workplace Violence, Bullying, and Threats, (Adult-to-Adult)

BUL-2521.2, Title IX Policy/Complaint Procedures

BUL-1347.4, Child Abuse and Neglect Reporting Requirements

BUL-3349.1, Sexual Harassment Policy (Student-To-Student, Adult-To-Student, and Student-To-Adult)

Additional related information/communications regarding sexual harassment and Title IX (as well as copies of the District’s policy bulletins on these subjects and copies of the above-referenced student brochures) may be found at both of the following websites: <https://achieve.lausd.net/eeco> (public), and <http://achieve.lausd.net> (only available to District employees).

ASSISTANCE:

For assistance or further information concerning sexual harassment and employee/employment discrimination, please contact the Equal Opportunity Section at (213) 241-7685. Complaints can also be made using the District’s Equal Opportunity hotline by calling (213) 241-7676.

For assistance with issues relating to employee discipline, call your respective Local District Staff Relations Coordinator.

For assistance with student against student related sexual harassment complaints, call Educational Equity Compliance at (213) 241-7682.



LOS ANGELES UNIFIED SCHOOL DISTRICT
POLICY BULLETIN

ATTACHMENT A

EMPLOYMENT DISCRIMINATION/HARASSMENT/RETALIATION FORM INTERNAL COMPLAINT SYSTEM

Case No. _____

Initial Filing: [] Site Level [] Equal Employment Opportunity Section

1. Name _____ Work Phone Number _____

Personal Phone Number _____

Work Email Address _____

Personal Email Address _____

Home Address _____

City & State _____ Zip Code _____

2. Job Title _____ Employee No. _____

Work Location _____ Telephone No. _____

3. Date of the alleged discriminatory/harassing act: _____ (Internal Complaint System requirement: Above date must be within twelve (12) months of date you file this complaint, except in extenuating circumstances.)

4. Check and specify the basis upon which your complaint is being filed. (Example: National Origin Hispanic)

- [] Race
[] Color
[] National Origin
[] Age
[] Religion
[] Marital Status
[] Genetic Information
[] Physical or Mental Disability
[] Political Belief or Affiliation



LOS ANGELES UNIFIED SCHOOL DISTRICT
POLICY BULLETIN

ATTACHMENT A

- Medical Condition (cancer-related)
Military or Veteran Status
Gender Identity or Expression
Sex (including pregnancy, childbirth, breastfeeding/lactation status and conditions related thereto)
Ancestry
Sexual Orientation

5. The alleged employment discrimination/harassment occurred in connection with:

- Disciplinary Action
Reasonable Accommodation
Terms and Conditions
Other (Specify)

6. Name(s), Title(s), Work Location(s) and Telephone Number(s) of the accused:

7. Present the facts of the alleged discriminatory/harassing/retaliatory employment practice. Describe completely the reason(s) for your complaint. You must include the date(s) and relevant circumstances underlying your allegation. Give the names of all persons involved. Please add sheets if necessary.

8. Do you have witnesses that can corroborate your allegations? Yes No If yes, please identify.

9. Please supply supporting evidence that you may have to document the basis for the alleged discriminatory/harassing practice that you are claiming (e.g., copies of any written material, e-mails, pictures, etc.).

I have attached supporting evidence: Yes No

10. Have you filed any other claim, complaint or grievance related to this matter? Yes No
If yes, please describe:

11. What remedy are you seeking to resolve your complaint?



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

ATTACHMENT A

I understand that the filing of this complaint does not protect any other rights that I may have as an employee of the District or as covered by a collective bargaining agreement. By signing below, I declare and affirm under penalty of perjury under the laws of the state of California that the statements made herein (and the accompanying attachments, if any) are true and correct to the best of my knowledge, information, and belief.

Complainant's Signature

Date Filed

Please submit this form to the site administrator, designee, or that person's immediate supervisor. If the complaint is being filed with the Equal Opportunity Section, please mail or fax to EOS at: 333 South Beaudry Avenue, 20th Floor, Los Angeles, CA 90017; facsimile 213.241.3308. For more information, please call EOS at 213.241.7685.