

Administrative Regulation

Nondiscrimination in Employment

GCCS

AR 4030

Personnel

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the Grizzly Challenge Charter School (GCCS) and resolved in accordance with procedures specified in this administrative regulation.

GCCS designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage GCCS's efforts to comply with state and answer inquiries regarding GCCS's nondiscrimination policies. The coordinator may be contacted at:

Chief Human Resources Officer
San Luis Obispo County Office of Education
3350 Education Drive
San Luis Obispo, CA 93405
805-543-7732

Measures to Prevent Discrimination

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

1. Display in a prominent and accessible location at every work site where GCCS has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Department of Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)
2. Publicize GCCS'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)
 - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
 - b. Posting them in the school and offices, including staff lounges and other prominent locations

- c. Posting them on GCCS's web site and providing easy access to them through GCCS-supported social media, when available
3. Disseminate GCCS's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
 - a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy on the GCCS website (Employee Annual Notifications) with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
 - e. Any other way that ensures employees receive and understand the policy
4. Provide to employees a handbook which contains information that clearly describes GCCS's nondiscrimination policy, procedures for filing a complaint, and resources available to employees the victim of any discriminatory or harassing behavior
5. Provide training regarding GCCS's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident GCCS may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide upon that support their intervention. (Government Code 12950.2)
6. Periodically review GCCS's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure GCCS compliance with law
7. For any GCCS facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce

Complaint Procedure

Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12//4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.

Any other 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 a direct supervisor, another supervisor, the coordinator, the Principal or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

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

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 GCCS'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 coordinator 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.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the 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 the investigation or to protect employee safety, the coordinator may discuss the complaint with the Principal or designee.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. 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 the findings. The 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 shall also 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 Principal or designee.

A summary of the findings shall be presented to the complainant and the person accused.

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

Other Remedies

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

1. For filing a complaint with DFEH alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a 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 2000e-5)

Federal References

20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex
CFR 35.101-35.190 Americans with Disabilities Act
USC 621-634 Age Discrimination in Employment Act
29 USC 794 Rehabilitation Act of 1973, Section 504
34 CFR 100.6 Compliance information
34 CFR 104.7 Designation of responsible employee for Section 504
34 CFR 104.8 Notice
34 CFR 106.8 Designation of responsible employee and adoption of grievance procedures
34 CFR 106.9 Severability
34 CFR 110.1-110.39 Nondiscrimination on the basis of age
42 USC 12101-12213 Equal opportunity for individuals with disabilities
42 USC 2000d-2000d-7 Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
42 USC 2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008
42 USC 2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
42 USC 6101-6107 Age Discrimination Act of 1975

Management Resources References

CA Dept of Fair Employment and Housing Publication - Your Rights and Obligations as a Pregnant Employee CA
Dept of Fair Employment and Housing Publication - Workplace Harassment Guide for California Employers CA
Dept of Fair Employment and Housing Publication - Transgender Rights in the Workplace
CA Dept of Fair Employment and Housing Publication - California Law Prohibits Workplace Discrimination and Harassment
Court Decision - Thomson v. North American Stainless LP, (2011) 131 S.Ct. 863
Court Decision - Shephard v. Loyola Marymount, (2002) 102 Cal.Appl 4th 837
U.S. DOE Office for Civil Rights Publication - Notice of Non-Discrimination, August 2010
U.S. Equal Employment Opportunity Comm Publication - Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
U.S. Equal Employment Opportunity Comm Publication - EEOC Compliance Manual
Website U.S. Equal Employment Opportunity Commission -
<https://simbli.eboardsolutions.com/SU/vWZpgy5hWTz73t9BVEDPpA==>
Website U.S. Department of Education, Office for Civil Rights -
<https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==>
Website California Department of Fair Employment and Housing -
<https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyl8K40jw==>

State References

2 CCR 11006-11086 Discrimination in employment
2 CCR 11023 Harassment and discrimination prevention and correction
2 CCR 11024 Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11027-11028 National origin and ancestry discrimination
5 CCR 4900-4965 Nondiscrimination in elementary and secondary education programs
Civ. Code 51.7 Freedom from violence or intimidation
Ed. Code 200-262.4 Educational equity; prohibition of discrimination on the basis of sex
Gov. Code 11135 Unlawful discrimination
Gov. Code 11138 Rules and regulations
Gov. Code 12900-12996 Fair Employment and Housing Act
Gov. Code 12940-12952 Unlawful employment practices
Gov. Code 12960-12976 Unlawful employment practices; complaints
Pen. Code 422.56 Definitions, hate crimes