

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

Personnel**PROHIBITION OF EMPLOYEE DISCRIMINATION, HARASSMENT AND RETALIATION**Policy Statement:

The Fresno County Superintendent of Schools ("FCSS" or "County Superintendent") is committed to providing a safe, positive environment where all FCSS employees are assured of full and equal employment access and opportunities, protection from discrimination, harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights.

For purposes of this policy, employees include job applicants, interns, volunteers, other persons with an employment relationship with FCSS, and persons who contract with the FCSS to provide services, as applicable. Moreover, the FCSS prohibits sexual harassment of FCSS employees and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.

This policy shall not be used to resolve any complaint by a student.

QUICK LINKS[Supervisor Report of Incident/Complaint](#)[Incident/Complaint Form](#)[Incident/Complaint Appeal Form](#)

This policy will be included in the **New Employee Orientation**, and the **Annual Employee Notifications** packet which is provided to all FCSS employees.

NONDISCRIMINATION IN EMPLOYMENT

No FCSS employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of one, or a combination of two or more, protected characteristics which include, but may not be limited to, the employee's actual or perceived race or ethnicity; ancestry; color; ethnic group identification; nationality; national origin; immigration status; sex; sexual orientation; sex stereotypes; gender; gender identity; gender expression; religion; religious creed; age; disability; medical condition; genetic information; pregnancy, false pregnancy, childbirth, termination of pregnancy, or related conditions or recovery; reproductive health decision-making; breastfeeding or related medical conditions; and parental, marital, and family status; or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 200, 210.1, 210.2, 212, 212.1, 220, 230, 260; Government Code 11135, 12920, 12926, 12940; 20 USC 1681-1688, 29 USC 621, 42 USC 2000d-2000d-7, 2000e-2)

FCSS shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that such inquiry is necessary to comply with federal immigration law. (2 CCR 11028)

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In addition, unless otherwise provided for in law, FCSS may not discriminate against an employee in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the person's hair, blood, urine, or other bodily fluid. However, the FCSS retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Hiring, compensation, terms, conditions, and other privileges of employment
2. Taking adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is offensive and so severe or pervasive as to adversely affect an employee's employment opportunities or that has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environment
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
 - a. Sex discrimination based on one, or a combination of two or more protected characteristics, which include, but may not be limited to, an employee's pregnancy, childbirth, breastfeeding, or any related medical condition, or on an employee's gender, gender expression, gender identity, or sexual orientation
 - b. Religious creed discrimination based on an employee's religious belief, observance, and practice, including religious dress or grooming practices, or based on FCSS' failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement
 - c. Requiring medical or psychological examination of a job applicant or making an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
 - d. Failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee
 - e. Requiring an employee to disclose information relating to the employee's reproductive health decision-making
 - f. Including a statement in a job advertisement, posting, application, or other material that an applicant is required to have a driver's license, unless FCSS reasonably expects driving to be one of the job functions for the position and reasonably believes that satisfying the job function using an alternative form of transportation would not be comparable in travel time or cost to the FCSS.

The County Superintendent also prohibits retaliation against any FCSS employee who opposes any discriminatory employment practice by the FCSS or its employees, agents, or

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representatives, or who complains, reports an incident, testifies, assists, or in any way participates in the FCSS' complaint process pursuant to this policy. No employee who requests accommodations for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; 2 CCR 11028)

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign a release of the employee's claim or right to file a claim against the FCSS or a non-disparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to Human Resources or designated Coordinator within one workday. All other employees shall report such incidents to their supervisor or designated Coordinator within one workday.

The County Superintendent or designee shall use all appropriate means to reinforce this nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, how to respond appropriately, and components of the FCSS' policies and procedures regarding discrimination. The County Superintendent or designee shall regularly review employment practices and, as necessary, and shall take action to ensure compliance with the nondiscrimination laws.

Any FCSS employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the Complaint Processes Section below. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in SP 4319.12 - Title IX Sexual Harassment Complaint Procedures.

FCSS shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the FCSS is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

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The FCSS designates the following position as its coordinator for nondiscrimination in employment to organize and manage FCSS' efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding FCSS' non-discrimination policies ("Coordinator"). The Coordinator can be contacted at:

Deputy Superintendent, Instructional Services
Office of the Fresno County Superintendent of
Schools 1111 Van Ness Avenue
Fresno, CA 93721-2000
(559) 265-3000
dlira@fcoe.org

MEASURES TO PREVENT DISCRIMINATION

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

1. Display in a prominent and accessible location at every work site where FCSS has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Civil Rights Department (CRD) 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 FCSS' nondiscrimination policy, including the complaint procedures and the Coordinator's contact information, by: (Education Code 234.1; 5 CCR 4960; 34 CFR 100.6, 106.8)
 - a. Including in each announcement, bulletin, or application form that is used in employee recruitment
 - b. Posting in all FCSS schools and offices, including staff lounges and other prominent locations
 - c. Posting on the FCSS website and providing easy access to them through FCSS-supported social media, when available
3. Disseminate FCSS' nondiscrimination policy 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 SharePoint 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

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4. Provide training regarding FCSS' nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

FCSS may also provide bystander intervention training to employees that includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take 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 them with resources they can call upon that support their intervention. (Government Code 12950.2)

5. Periodically review FCSS' recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure FCSS compliance with law and related recruitment and hiring policies
6. For any FCSS 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 (2 CCR 11023)

COMPLAINT PROCEDURES

Any complaint alleging unlawful discrimination or harassment covered by this policy 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 County Superintendent 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 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 or not the complainant files a complaint.

The 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 or designee shall initiate an impartial investigation of an allegation of discrimination or harassment, regardless of whether a complaint has been filed or whether the complaint is complete.

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The Coordinator or designee shall meet with the complainant to describe FCSS' complaint procedures and discuss the actions being sought by the complainant in response to the allegation. The Coordinator or designee 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 or designee shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

If the Coordinator or designee determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the Coordinator should interview the complainant, the person(s) accused, and other persons who could be expected to have relevant information.

The Coordinator or designee 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 or designee may discuss the complaint with the Assistant Superintendent, Human Resources or designee, legal counsel, or FCSS' risk manager.

The Coordinator or designee 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 or designee shall ensure that such interim measures do not constitute retaliation.

3. Written Report on Findings and Remedial/Corrective Action: After receiving the complaint, the Coordinator or designee shall conclude the investigation and prepare a written report of the findings.

This timeline may be extended by the Coordinator or designee for good cause. If an extension is needed, the parties shall be notified, including an explanation of 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 County Superintendent.

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

4. Appeal to the County Superintendent: The complainant or any of the person(s) accused may appeal any findings to the County Superintendent within 10 business days of

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receiving the written report of the Coordinator or designee's findings.

The County Superintendent shall be provided with all information presented during the investigation and the County Superintendent shall schedule a meeting as soon as practicable. The County Superintendent shall render a decision within 10 business days of the appeal meeting.

OTHER REMEDIES

In addition to the complaint process available through the FCSS, an employee may file a complaint with either the California Civil Rights Department (CRD) or Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with CRD 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 (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 CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier (42 USC 2000e-5)

An employee may also file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the PUMP Act and/or EEOC for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2)

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

Adopted: 04/07/1997

Amended: 12/05/2005; 04/14/2010; 04/04/2011; 04/11/2012; 10/22/2013; 01/20/2016; 02/23/2016; 08/14/2020; 10/01/2020; 11/3/2023; 08/01/2024; 09/16/2024; 07/30/2025

REFERENCES

Superintendent Policy SP 4319.11

Superintendent Policy SP 4319.12

Refer to 5145.3 – Nondiscrimination/Harassment (SP & BP) and 5145.3 Nondiscrimination/Harassment (AR) when incident/complaint involves a student.

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