

## **Santa Barbara County Special Education Local Plan Area**

### **SELPA Administrative Regulation: Nondiscrimination in Employment (4030 AR)**

All complaints alleging discrimination in employment, as defined in the accompanying Santa Barbara County SELPA JPA Board policy, shall be investigated and resolved in accordance with procedures specified in this administrative regulation. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in the SELPA's Title IX policies and administrative regulations.

The SELPA designates the position identified below as its officer for nondiscrimination in employment to organize and manage the SELPA's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the SELPA's nondiscrimination policies. The SELPA Executive Director may be contacted at:

Dr. Stacey McCrath-Smith  
SELPA Executive Director  
5385 Hollister Avenue, Building 7  
Santa Barbara, CA 93111  
805-683-1424  
SMcCrathSmith@sbcselfpa.org

### **Measures to Prevent Discrimination**

To prevent unlawful discrimination, harassment, and retaliation in SELPA employment, the SELPA Executive Director shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the SELPA 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.
2. Publicize the SELPA's nondiscrimination policy and regulation, including the complaint procedures and the SELPA Executive Director's contact information, by:
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all SELPA buildings, including in staff lounges and other prominent locations
  - c. Posting them on the SELPA's website.
3. Disseminate the SELPA's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods:
  - 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 SELPA intranet 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 the SELPA's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior.
  5. Provide training regarding the SELPA's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made.

The SELPA 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.

6. Periodically review the SELPA's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure SELPA compliance with the law and SELPA policies and administrative regulations.

### **Complaint Procedure**

Any complaint alleging unlawful discrimination or harassment covered by this administrative regulation and accompanying Board policy shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: A complainant may inform the SELPA Executive Director, or in the case of a complaint filed against the SELPA Executive Director, the SELPA JPA Board.

The complainant may first attempt to resolve the situation informally with the SELPA's Executive Director or Coordinator.

A SELPA management-level employee has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the SELPA Executive Director, 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 SELPA Executive Director shall initiate an impartial investigation<sup>1</sup> 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 complaint has been filed or whether the complaint is complete

The SELPA Executive Director shall meet with the complainant to describe the SELPA's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The SELPA Executive Director 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 SELPA Executive Director 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 SELPA Executive Director determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the SELPA Executive Director should interview the complainant, the person(s) accused, and other persons who could be expected to have relevant information.

The SELPA Executive Director 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 SELPA Executive Director may discuss the complaint with SELPA legal counsel or SELPA JPA Board Chair.

The SELPA Executive Director 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 SELPA Executive Director 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 SELPA Executive Director shall conclude the investigation and prepare a written report of the findings

This timeline may be extended by the SELPA Executive Director for good cause. If an extension is needed, the SELPA Executive Director 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 SELPA Executive Director.

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

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<sup>1</sup> Nothing in this administrative regulation or the related policy shall bar the SELPA Executive Director from determining that it is appropriate to have a designee, which may include SELPA Legal Counsel or other contracted individual from conducting the investigation and writing the report.

4. Appeal to the SELPA JPA Board: The complainant or any of the person(s) accused may appeal any findings to the SELPA JPA Board within 10 business days of receiving the written report of the SELPA Executive Director's findings.

The SELPA Executive Director shall provide the Board with all information presented during the investigation and the SELPA JPA Board shall schedule a hearing as soon as practicable. Any complaint against a SELPA employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days of closed session.

### **Other Remedies**

In addition to filing a discrimination or harassment complaint with the SELPA, a person may file a complaint with either the California Civil Rights Department (“CRD”) or the 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 California Government Code 12960.
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) pursuant to Title 42 of the United States Code section 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, pursuant to Title 42 of the United States Code section 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.

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