

Policy 4030: Nondiscrimination In Employment

Status: DRAFT

Original Adopted Date: 10/05/2010 | Last Revised Date: 06/13/2023

The Governing Board is determined to provide a safe, positive environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. For purposes of this policy, employees include job applicants, interns, volunteers, and persons who contracted with the district to provide services, as applicable.

No district 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 the employee's actual or perceived race;; color;; ancestry;; national origin;; age;; religious creed;; **pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status;** pregnancy;; physical or mental disability;; medical condition;; genetic information;; veteran or military status;; sex;; **sex stereotypes; sex characteristics;** sexual orientation;; gender;; gender identity;; gender expression;; or association with a person or group with one or more of these actual or perceived characteristics.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decision-making, defined as a person's decision to use or access a particular drug, device, product, or medical service for reproductive health. (Government Code 12926, 12940)

The district 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 the district is required to do so in order to comply with federal immigration law. (2 CCR 11028) **such inquiry is necessary to comply with federal immigration law. (2 CCR 11028)**

Unless otherwise provided for in law, the district may not discriminate against an employee, including an applicant for employment, 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 applicant's hair, blood, urine, or other bodily fluid. However, the district 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 of 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 an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status as specified in Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 - **Sex Discrimination and Sex-Based Harassment**
 - b. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on the district's 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 applicant or employee to disclose information relating to the employee's reproductive health decision-making

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation 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 district or a nondisparagement 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)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation. **However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.**

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 the Superintendent or designated district coordinator ~~as soon as practical after the incident~~ **within one workday**. All other employees are encouraged to ~~shall~~ report such incidents to their supervisor immediately ~~or designated district coordinator within one workday~~.

The Superintendent or designee shall use all appropriate means to reinforce the district's 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 district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

Any district 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.

The district 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 district 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)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

2 CCR 11006-11086

Description

Discrimination in employment

State References

2 CCR 11023
 2 CCR 11024
 2 CCR 11027-11028
 5 CCR 4900-4965
 CA Constitution Article 1, Section 1
 Civ. Code 51.7
 Ed. Code 200-270
 Gov. Code 11135
 Gov. Code 12900-12996
 Gov. Code 12940-12954
 Gov. Code 12960-12976
 Lab. Code 1030-1034
 Lab. Code 1197.5
 Lab. Code 79-107
 Pen. Code 422.56

Federal References

20 USC 1681-1688
 28 CFR 35.101-35.190
 29 CFR 1636
 29 USC 218d
 29 USC 621-634
 29 USC 794
 34 CFR 100.6
 34 CFR 104.7
 34 CFR 104.8
 34 CFR 106.1-106.82
 34 CFR 110.1-110.39
 42 USC 12101-12213
 42 USC 2000d-2000d-7
 42 USC 2000e-2000e-17
 42 USC 2000ff-2000ff-11
 42 USC 2000gg-2000gg-6
 42 USC 2000h-2-2000h-6
 42 USC 6101-6107
 Executive Order 11246
 U.S. Constitution, First Amendment

Description

Harassment and discrimination prevention and correction
 Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
 National origin and ancestry discrimination
 Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
[Inalienable rights](#)
[Freedom from violence or intimidation](#)
[Prohibition of discrimination](#)
[Prohibition of discrimination](#)
[Fair Employment and Housing Act](#)
 Unlawful employment practices
[Unlawful employment practices; complaints](#)
 Lactation accommodation
 Wages, hours and working conditions
 Division of Labor Standards Enforcement
[Definitions; hate crimes](#)

Description

Title IX of the Education Amendments of 1972; discrimination based on sex
 Americans with Disabilities Act
 Implementation of the Pregnant Workers Fairness Act
 Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act
 Age Discrimination in Employment Act
 Rehabilitation Act of 1973; Section 504
 Title VI; Compliance information
 Section 504; Designation of responsible employee and adoption of grievances procedures
 Notice of Nondiscrimination on the Basis of Handicap
 Discrimination on the basis of sex; effectuating Title IX
 Nondiscrimination on the basis of age
 Americans with Disabilities Act
 Title VI, Civil Rights Act of 1964
 Title VII, Civil Rights Act of 1964, as amended
 Genetic Information Nondiscrimination Act of 2008
 Pregnant Workers Fairness Act
 Title IX of the Civil Rights Act of 1964
 Age discrimination in federally assisted programs
[Equal Employment Opportunity](#)
[Free exercise, free speech, and establishment clauses](#)

Management Resources References

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Federal Register

U.S. Department of Education Publication

U.S. Equal Employment Opportunity Comm
PublicationU.S. Equal Employment Opportunity Comm
PublicationU.S. Equal Employment Opportunity Comm
Publication

Website

Website

Website

Website

Website

Website

Cross References

0410

1113

1113

1113-E(1)

1114

1114

1240

1240

1312.1

1312.1

Description[Sexual Harassment, January 2023](#)[Family Care and Medical Leave and Pregnancy Disability Leave, January 2023](#)[California Law Prohibits Workplace Discrimination and Harassment, January 2024](#)[The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022](#)[Harassment Prevention Guide for California Employers, 2017](#)[Your Rights and Obligations as a Pregnant Employee, January 2023](#)

Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742

Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775

Groff v. DeJoy (2023) 600 U.S. 447

Kennedy v. Bremerton (2022) 142 S.Ct. 2407

Shepard v. Loyola Marymount (2002) 102 Cal.App. 4th 837

Thomson v. North American Stainless LP (2011) 62 U.S. 170

[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)[Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023](#)[Know Your Rights: Workplace Discrimination is Illegal, June 2023](#)[Enforcement Guidance on Harassment in the Workplace, April 2024](#)[EEOC Compliance Manual](#)[U.S. Department of Labor, Office of Federal Contract Compliance Program](#)[CSBA District and County Office of Education Legal Services](#)[California Department of Industrial Relations](#)[California Civil Rights Department](#)[U.S. Department of Education, Office for Civil Rights](#)[Equal Employment Opportunity Commission](#)**Description**[Nondiscrimination In District Programs And Activities](#)[District And School Websites](#)[District And School Websites](#)[District And School Websites](#)[District-Sponsored Social Media](#)[District-Sponsored Social Media](#)[Volunteer Assistance](#)[Volunteer Assistance](#)[Complaints Concerning District Employees](#)[Complaints Concerning District Employees](#)

Cross References**Description**

1312.1-E PDF(1)	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E PDF(1)	Uniform Complaint Procedures
1312.3-E PDF(2)	Uniform Complaint Procedures
1313	Civility
3312	Contracts
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
3600	Consultants
4000	Concepts And Roles
4032	Reasonable Accommodation
4033	Lactation Accommodation
4111	Recruitment And Selection
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.4	Health Examinations
4112.41	Employee Drug Testing
4112.41	Employee Drug Testing
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4112.8	Employment Of Relatives
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4114	Transfers
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sex Discrimination and Sex-Based Harassment
4119.11	Sex Discrimination and Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.22	Dress And Grooming
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.41	Employees With Infectious Disease
4131	Staff Development

Cross References**Description**

4144	Complaints
4144	Complaints
4151	Employee Compensation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4161.5	Military Leave
4161.8	Family Care And Medical Leave
4211	Recruitment And Selection
4211.2	Legal Status Requirement
4212.4	Health Examinations
4212.41	Employee Drug Testing
4212.6	Personnel Files
4212.8	Employment Of Relatives
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	Sex Discrimination and Sex-Based Harassment
4219.11	Sex Discrimination and Sex-Based Harassment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.41	Employees With Infectious Disease
4244	Complaints
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4261.5	Military Leave
4261.8	Family Care And Medical Leave
4311	Recruitment And Selection
4311.2	Legal Status Requirement
4312.4	Health Examinations
4312.41	Employee Drug Testing
4312.6	Personnel Files
4312.8	Employment Of Relatives
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications

Cross References

	Description
4319.1	Civil And Legal Rights
4319.11	Sex Discrimination and Sex-Based Harassment
4319.11	Sex Discrimination and Sex-Based Harassment
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.22	Dress And Grooming
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.41	Employees With Infectious Disease
4331	Staff Development
4344	Complaints
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.5	Military Leave
4361.8	Family Care And Medical Leave
5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session