

POLICY 4030: NON-DISCRIMINATION IN EMPLOYMENT**Original Adoption:** 4/22/1996**Revised:** 12/09/2002, 3/08/2004, 12/06/2011, 5/12/2015, 6/16/2015, 5/10/2016, 11/10/2020

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, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics.

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 it is necessary to comply with federal immigration law.

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. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment
2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is 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 individual'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
 - 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. Requirement for a medical or psychological examination of a job applicant, or 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

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, 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.

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign any document that releases the employee's right to file a claim against the district or to disclose information about harassment or other unlawful employment practices.

Complaints concerning employment discrimination, or harassment, or retaliation shall immediately be investigated in accordance with Procedures specified in the accompanying administrative regulation.

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. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

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 related 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.

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.

<u>State</u>	<u>Description</u>
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

Federal

20 USC 1681-1688	Title IX of the Education Amendments of 1972
28 CFR 35.101-35.190	Americans with Disabilities Act
29 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	Dissemination of policy
34 CFR 110.1-110.39	Nondiscrimination on the basis of age
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964, as amended
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 in federally assisted programs

Management Resources

CA Dept. of Fair Employment and Housing Publication	<u>Description</u> California Law Prohibits Workplace Discrimination and Harassment
CA Dept. of Fair Employment and Housing Publication	Transgender Rights in the Workplace
CA Dept. of Fair Employment and Housing Publication	Workplace Harassment Guide for California Employers
CA Dept. of Fair Employment and Housing Publication	Your Rights and Obligations as a Pregnant Employee
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	EEOC Compliance Manual
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
Website	California Department of Fair Employment and Housing
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

<u>Code</u>	<u>Description</u>
0410	Nondiscrimination in District Programs and Activities
0470	COVID-19 Mitigation Plan
1113	District and School Web Sites
1113	District and School Web Sites
1113-E (1)	District and School Web Sites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1240	Volunteer Assistance

1240	Volunteer Assistance
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E (1)	Uniform Complaint Procedures
1312.3-E (2)	Uniform Complaint Procedures
2120	Superintendent Recruitment and Selection
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
4112.6	Personnel Files
4112.8	Employment of Relatives
4112.9	Employee Notifications
4112.9-E (1)	Employee Notifications
4113.5	Working Remotely
4114	Transfers
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil and Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.22	Dress and Grooming
4119.23	Unauthorized Release of Confidential/Privileged Information
4119.41	Employees with Infectious Disease
4131	Staff Development
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
4211.2	Legal Status Requirement
4212.4	Health Examinations
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing
4212.6	Personnel Files
4212.8	Employment of Relatives
4212.9	Employee Notifications

4212.9-E (1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.1	Civil and Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.22	Dress and Grooming
4219.23	Unauthorized Release of Confidential/Privileged Information
4219.41	Employees with Infectious Disease
4231	Staff Development
4244	Complaints
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
4311.2	Legal Status Requirement
4312.4	Health Examinations
4312.41	Employee Drug Testing
4312.41	Employee Drug Testing
4312.6	Personnel Files
4312.8	Employment of Relatives
4312.9	Employee Notifications
4312.9-E (1)	Employee Notifications
4313.5	Working Remotely
4319.1	Civil and Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.22	Dress and Grooming
4319.23	Unauthorized Release of Confidential/Privileged Information
4319.41	Employees with Infectious Disease
4331	Staff Development
4344	Complaints
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
9000-B	Role of the Board
9321-B	Closed Session