

REVISION

Personnel

Nondiscrimination in Employment

The Board of Education 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.

~~The district shall not unlawfully discriminate against or tolerate the harassment of employees or job applicants on the basis of their actual or perceived sex, race, color, religion, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, gender identity, gender expression, genetic information or sexual orientation.~~

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; 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.

~~The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.~~

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)

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 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)

Physically or mentally disabled employees or applicants may request reasonable accommodation.

Any district employee who engages ~~or participates in unlawful~~ 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** ~~discriminate, is in violation of this policy and is~~ subject to disciplinary action, up to and in or including dismissal.

~~Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.~~

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 within one workday. All other employees shall report such incidents to their supervisor or designated district coordinator within one workday.

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.

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.

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)

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures.

The district's policy and administrative regulations shall be posted in all schools and offices including staff lounges and student government meeting rooms.

The Board of Education designates the following position as Coordinator for Nondiscrimination in Employment:

Director of Personnel
1305 E. Vine Street, Lodi, CA 95240
(209) 331-7095

An employee may, in addition to filing a discrimination complaint with the district, file a complaint with either the California Department of Fair Employment and

Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discriminatory act(s) unless an exception exists pursuant to Government Code 12960.
2. To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier.

Employees wishing to file complaints with the DFEH and EEOC should contact the nondiscrimination coordinator for more information.

Legal References: [CIVIL CODE](#)
[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 educational programs receiving state or federal financial assistance

CA Constitution Article 1, Section 1 Inalienable rights

51.7 Freedom from violence or intimidation

Ed. Code 200-270 Prohibition of discrimination

GOVERNMENT CODE

11135 Prohibition of discrimination

12900-12996 Fair Employment and Housing Act

12940-12954 Unlawful employment practices

12960-12976 Unlawful employment practices; complaints

LABOR CODE

Lab. Code 1030-1034 Lactation accommodation

Lab. Code 1197.5 Wages, hours, and working conditions

Lab. Code 79-107 Division of Labor Standards and Enforcements

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

2000gg-2000gg-6 Pregnant Workers Fairness Act

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

6107-6107 Age discrimination in federally assisted programs

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 American with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance information

104.7 Section 504: Designation of responsible employee and adoption of grievances procedures

104.8 Notice of nondiscrimination on the basis of handicap

106.1-106.82 Discrimination on the basis of sex; effectuating Title IX

110.1-110.39 Nondiscrimination on the basis of age

COURT DECISIONS

Carter v. California Department of Veterans Affairs (2003) 2003

Cal.LEXIS 5694

Shephard v. Loyola Marymount (2002) 102 CalApp. 4th 837

Policy

adopted: 04/21/98

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revised: 09/18/12