

LODI UNIFIED SCHOOL DISTRICT

REVISION **Personnel**

Rule 4030

Nondiscrimination in Employment

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this 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 district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Director of Personnel
1305 E. Vine St.
Lodi, CA 95240
(209) 331-7000

Measures to Prevent Discrimination

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

1. Display in a prominent and accessible location at every work site where the district 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, including sex-based 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 the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.8)
 - a. Posting them in all district schools and offices, including staff lounges and other prominent locations
 - b. Posting them on the district's website and providing easy access to them through district-supported social media, when available
3. Disseminate the district's nondiscrimination policy and administrative regulation 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 the district 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. Post in a prominent location on the district's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following: (34 CFR 106.8)
 - a. The district does not discriminate on the basis of sex in any education program or activity that it operates
 - b. Inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or the U.S. Department of Education Office for Civil Rights
 - c. The name or title, office and email address, and telephone number of the district's Title IX Coordinator
 - d. How to locate the district's nondiscrimination policy and the district's grievance procedures for Title IX complaints

- e. How to report conduct that may constitute sex discrimination under Title IX
- f. How to make a complaint of Title IX sex discrimination

If necessary due to the format or size of any publication specified above, the district may include only the statement that the district prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location of the complete notice on the district's website.

5. Provide to employees information that clearly describes the district'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.
6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law and Board Policy 4111 - Recruitment and Selection
7. For any district 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 Procedure

Any complaint alleging unlawful discrimination or harassment 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 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 written 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 written

complaint.

The written 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 shall initiate an impartial investigation 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 written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator 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 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 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 accused, and other persons who could be expected to have relevant information.

The coordinator 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 may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator 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 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 coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator 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 Superintendent or designee.

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

4. **Appeal to the Board of Education:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either 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 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 the Equal Employment Opportunity Commission 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)

Discriminatory Harassment

~~Unlawful harassment based on a person's race, sex, or other attribute listed in the district's nondiscrimination policy includes, but is not limited to, the following:~~

- ~~1. Slurs, epithets, threats, or verbal abuse.~~
- ~~2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures.~~
- ~~3. Unwelcome jokes, stories or teasing.~~
- ~~4. Any other verbal, visual or physical conduct which adversely affects the individual's employment opportunities or has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive working environment.~~

~~Harassment may arise not only as a result of the offender's intention, but also as a result of the offended person's perception of the offensive conduct and the way in which it affects him/her.~~

~~Any employee or applicant for employment who feels that he/she is being unlawfully harassed should immediately contact his/her supervisor or the District Personnel Office in order to obtain procedures for reporting a complaint.~~

~~Any supervisor who receives a harassment complaint shall notify the appropriate Director of Personnel, who shall ensure that the complaint is appropriately investigated. Discrimination complaint procedures prohibit retaliatory behavior against any complainant or any participant in the complaint process.~~

State	Description
2 CCR 11006-11086	Discrimination in employment
2 CCR 11023	<u>Harassment and discrimination prevention and correction</u>
2 CCR 11024	<u>Required training and education on harassment based on sex, gender identity and expression, and sexual orientation</u>
2 CCR 11027-11028	<u>National origin and ancestry discrimination</u>
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
CA Constitution Article 1, Section 1	<u>Inalienable rights</u>
Civ. Code 51.7	<u>Freedom from violence or intimidation</u>
Ed. Code 200-270	<u>Prohibition of discrimination</u>
Gov. Code 11135	<u>Prohibition of discrimination</u>
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940-12954	<u>Unlawful employment practices</u>
Gov. Code 12960-12976	<u>Unlawful employment practices; complaints</u>
Lab. Code 1030-1034	<u>Lactation accommodation</u>
Lab. Code 1197.5	<u>Wages, hours, and working conditions</u>
Lab. Code 1197.5	<u>Wages, hours and working conditions</u>
Lab. Code 79-107	<u>Division of Labor Standards Enforcement</u>
Pen. Code 422.56	<u>Definitions; hate crimes</u>
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
29 CFR 1636	<u>Implementation of the Pregnant Workers Fairness Act</u>
29 USC 218d	<u>Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act</u>
29 USC 621-634	<u>Age Discrimination in Employment Act</u>
29 USC 794	<u>Rehabilitation Act of 1973; Section 504</u>
34 CFR 100.6	<u>Title VI; Compliance information</u>
34 CFR 104.7	<u>Section 504; Designation of responsible employee and adoption of grievances procedures</u>
34 CFR 104.8	<u>Notice of Nondiscrimination on the Basis of Handicap</u>

34 CFR 106.1-106.82	<u>Discrimination on the basis of sex; effectuating Title IX</u>
34 CFR 110.1-110.39	<u>Nondiscrimination on the basis of age</u>
42 USC 12101-12213	<u>Americans with Disabilities Act</u>
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000ff-2000ff-11	<u>Genetic Information Nondiscrimination Act of 2008</u>
42 USC 2000gg-2000gg-6	<u>Pregnant Workers Fairness Act</u>
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	<u>Age discrimination in federally assisted programs</u>
Executive Order 11246	<u>Equal Employment Opportunity</u>
U.S. Constitution, First Amendment	<u>Free exercise, free speech, and establishment clauses</u>
Management Resources	Description
CA Civil Rights Department	<u>Sexual Harassment, January 2023</u>
Publication	
CA Civil Rights Department	<u>Family Care and Medical Leave and Pregnancy</u>
Publication	<u>Disability Leave, January 2023</u>
CA Civil Rights Department	<u>California Law Prohibits Workplace Discrimination and</u>
Publication	<u>Harassment, January 2024</u>
CA Civil Rights Department	<u>The Rights of Employees Who Are Transgender or</u>
Publication	<u>Gender Nonconforming: Fact Sheet, November 2022</u>
CA Civil Rights Department	<u>Harassment Prevention Guide for California</u>
Publication	<u>Employers, 2017</u>
CA Civil Rights Department	<u>Your Rights and Obligations as a Pregnant Employee,</u>
Publication	<u>January 2023</u>
Court Decision	Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742
Court Decision	Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775
Court Decision	Groff v. DeJoy (2023) 600 U.S. 447
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Shephard v. Loyola Marymount (2002) 102 Cal.App. 4th 837
Court Decision	Thomson v. North American Stainless LP (2011) 62 U.S. 170
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education</u>
	<u>Programs or Activities Receiving Federal Financial</u>
	<u>Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-</u>
	<u>33896</u>
U.S. Department of Education	<u>Guidance on Constitutionally Protected Prayer and</u>
Publication	<u>Religious Expression in Public Elementary and</u>
	<u>Secondary Schools, May 2023</u>
U.S. Equal Employment Opportunity	<u>Know Your Rights: Workplace Discrimination is Illegal,</u>

Comm Publication	<u>June 2023</u>
U.S. Equal Employment Opportunity Comm Publication	<u>Enforcement Guidance on Harassment in the Workplace, April 2024</u>
U.S. Equal Employment Opportunity Comm Publication	<u>EEOC Compliance Manual</u>
Website	<u>U.S. Department of Labor, Office of Federal Contract Compliance Program</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of Industrial Relations</u>
Website	<u>California Civil Rights Department</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
Website	<u>Equal Employment Opportunity Commission</u>

Rule

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