

Policy 4030: Nondiscrimination In Employment

Status: DRAFT
ADOPTED

Original Adopted Date: 01/23/2013 | **Last Revised Date:** 02/05/2020

03/01/2023 | **Last Reviewed Date:** 03/01/2023

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.

~~(cf. 1240 Volunteer Assistance)~~

~~(cf. 3312 Contracts)~~

~~(cf. 3600 Consultants)~~

~~(cf. 4111/4211/4311 Recruitment and Selection)~~

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, **veteran or 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.

~~(cf. 0410 Nondiscrimination in District Programs and Activities)~~

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decisionmaking, 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 necessary~~ **required to do so in order** to comply with federal immigration law. (2 CCR 11028)

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. ~~1. Discrimination in hiring~~ **Hiring**, compensation, terms, conditions, and other privileges of employment

(cf. ~~4151/4251/4351~~ Employee Compensation)

(cf. ~~4154/4254/4354~~ Health and Welfare Benefits)

2. Taking of an ~~adverse employment action,~~ **actions** such as termination or the denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that ~~affects~~ **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~~ **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~~ **12940** or 2 CCR ~~11006~~ **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

(cf. ~~4033~~ Lactation Accommodation)

(cf. ~~4119.11/4219.11/4319.11~~ Sexual 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

(cf. ~~4119.22/4219.22/4319.22~~ Dress and Grooming)

- c. ~~Requirement for a~~ **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

(cf. ~~4119.41/4219.41/4319.41~~ Employees with Infectious Disease)

- 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

(cf. ~~4032~~ Reasonable Accommodation)

e. **Requiring an applicant or employee to disclose information relating to the employee's reproductive health decisionmaking**

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~~; **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 ~~any document that releases~~ **a release of the employee's claim or right to file a claim against the district or to disclose 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 employment practices. **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.

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 Chief Learning Officer 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 Chief Learning Officer 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~~ **prohibited** conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent Chief Learning Officer 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)

(cf. ~~4118~~ Dismissal/Suspension/Disciplinary Action)

(cf. ~~4218~~ Dismissal/Suspension/Disciplinary Action)

~~Legal~~

Policy Reference Disclaimer:

~~EDUCATION CODE~~

~~200-262.4 Prohibition of discrimination~~

~~CIVIL CODE~~

~~51.7 Freedom from violence or intimidation~~

~~GOVERNMENT CODE~~

~~11135 Unlawful discrimination~~

~~11138 Rules and regulations~~

~~12900-12996 Fair Employment and Housing Act, especially:~~

~~12940-12952 Unlawful employment practices~~

~~12960-12976 Unlawful employment practices; complaints~~

~~PENAL CODE~~

~~422.56 Definitions, hate crimes~~

~~CODE OF REGULATIONS, TITLE 2~~

~~11006-11086 Discrimination in employment, especially:~~

~~11013 Recordkeeping~~

~~11019 Terms, conditions and privileges of employment~~

~~11023 Harassment and discrimination prevention and correction~~

~~11024 Sexual harassment training and education~~

~~11027-11028 National origin and ancestry discrimination~~

~~CODE OF REGULATIONS, TITLE 5~~

~~4900-4965 Nondiscrimination in elementary and secondary education programs~~

~~UNITED STATES CODE, TITLE 20~~

~~1681-1688 Title IX of the Education Amendments of 1972~~

~~UNITED STATES CODE, TITLE 29~~

~~621-634 Age Discrimination in Employment Act~~

~~794 Section 504 of the Rehabilitation Act of 1973~~

~~UNITED STATES CODE, TITLE 42~~

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

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

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

~~2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964~~

~~6101-6107 Age discrimination in federally assisted programs~~

~~12101-12213 Americans with Disabilities Act~~

~~CODE OF FEDERAL REGULATIONS, TITLE 28~~

~~35.101-35.190 Americans with Disabilities Act~~

~~CODE OF FEDERAL REGULATIONS, TITLE 34~~

~~100.6 Compliance information~~

~~104.7 Designation of responsible employee for Section 504~~

~~104.8 Notice~~

~~106.8 Designation of responsible employee and adoption of grievance procedures~~

~~106.9 Dissemination of policy~~

~~110.1-110.39 Nondiscrimination on the basis of age~~

~~COURT DECISIONS~~

~~Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863~~

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

~~Management Resources:~~

~~CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS~~

~~California Law Prohibits Workplace Discrimination and Harassment~~

~~Transgender Rights in the Workplace~~

~~Workplace Harassment Guide for California Employers~~

~~Your Rights and Obligations as a Pregnant Employee~~

~~U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS~~

Notice of Non-Discrimination, August 2010

~~U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS~~

~~EEOC Compliance Manual~~

~~Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999~~

~~WEB SITES~~

~~California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>~~

~~U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>~~

~~U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>~~

~~Policy TAHOE TRUCKEE UNIFIED SCHOOL DISTRICT~~

~~adopted: January 23, 2013 Truckee, California~~

~~revised: October 14, 2015~~

~~revised: June 15, 2016~~

~~revised: May 3, 2017~~

~~revised: February 5, 2020~~

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	Description
2 CCR 11006-11086	<u>Discrimination in employment</u>
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	Inalienable rights
Civ. Code 51.7	<u>Freedom from violence or intimidation</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Gov. Code 11135	<u>Prohibition of discrimination</u>
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	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 USC 621-634	Age Discrimination in Employment Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.6	Title VI; Compliance information
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 104.8	Notice of Nondiscrimination on the Basis of Handicap
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
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
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
Executive Order 11246	“Know Your Rights: Workplace Discrimination is Illegal” poster
U.S. Constitution	Amendment 1, Free exercise, free speech, and establishment clauses
Management Resources	Description
CA Civil Rights Department Publication	Family Care and Medical Leave and Pregnancy Disability Leave
CA Civil Rights Department Publication	California Law Prohibits Workplace Discrimination and Harassment
CA Civil Rights Department Publication	The Rights of Employees Who Are Transgender or Gender Nonconforming
CA Civil Rights Department Publication	Harassment Prevention Guide for California Employers
CA Civil Rights Department Publication	Your Rights and Obligations as a Pregnant Employee
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Shepard v. Loyola Marymount, (2002) 102 Cal.App. 4th 837
Court Decision	Thomson v. North American Stainless LP (2011) 62 U.S. 170

U.S. DOE Office for Civil Rights Publication	Notice of Non-Discrimination, August 2010
U.S. Equal Employment Opportunity Comm Publication	Know Your Rights: Workplace Discrimination is Illegal, October 2022
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
U.S. Equal Employment Opportunity Comm Publication	EEOC Compliance Manual
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 Civil Rights Department</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
Website	<u>U.S. Equal Employment Opportunity Commission</u>

Cross References

Code	Description
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	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	Uniform Complaint Procedures
1312.3	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
4112.6	Personnel Files
4112.8	Employment Of Relatives
4112.9	Employee Notifications
4112.9	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
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12	Title IX Sexual 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
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	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
4219.12	Title IX Sexual Harassment Complaint Procedures
4219.12	Title IX Sexual Harassment Complaint Procedures
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	Employee Notifications
4313.5	Working Remotely
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.12	Title IX Sexual Harassment Complaint Procedures
4319.12	Title IX Sexual 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
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	Role Of The Board
9321	Closed Session
9321	Closed Session

