

# Davis School District Policy and Procedures

**Subject:** 2HR-200 Equal Employment Opportunity

**Index:** Human Resources – *Employee Legal Rights and Responsibilities*

**Revised**~~DRAFT~~: ~~May 20, 2015~~August 18, 2020 – Five-year Review

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## 1. PURPOSE AND PHILOSOPHY

To preserve an employment environment free from unlawful discrimination and provide for personnel selection based on an objective evaluation without regard to prior associations or relationships.

## 2. POLICY ON EQUAL EMPLOYMENT OPPORTUNITY

Employment decisions shall be based on job related qualifications and competence. Except where required or permitted by law, employment practices shall not be influenced or affected by virtue of an applicant's or employee's race, color, religion, sex, national origin, age, disability, sexual orientation, gender identity, veteran status or any other characteristic protected by law.

### 2.1. Equal Employment Opportunity Commitment

Davis School District is committed to providing applicants to and employees of the District an environment that is free from unlawful discrimination on the following basis:

- 2.1.1. **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN.** Title VII of the Civil Rights Act of 1964, as amended, and Utah Code Ann., Title 34A, Chapter 5, Utah Antidiscrimination Act, protect applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy, childbirth, or pregnancy related conditions), sexual orientation, gender identity, or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship on the work/school environment.
- 2.1.2. **DISABILITY.** The Americans with Disabilities Act of 1990 (ADA) protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Non-discrimination provisions include making reasonable accommodation to known physical or mental limitations as outlined in District Policy 11IR-101 Provision of Reasonable Accommodations to Individuals with Disabilities.
- 2.1.3. **AGE.** The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.
- 2.1.4. **SEX.** In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.
- 2.1.5. **GENETICS.** Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases

or disorders in family members (family medical history); and requests for receipt of genetic services by applicants, employees, or their family members.

2.1.6. **VETERAN'S PREFERENCE**

Utah Code Ann. Title 71, Chapter 10 Veteran's Preference requires the District to provide a preference in the initial hiring process to qualifying individuals.

- 2.1.7. **HARASSMENT.** Harassment is a form of discrimination and it is illegal to harass an employee because of race, color, religion, sex (including pregnancy, childbirth, or pregnancy related conditions), sexual orientation, gender identity, national origin, age (40 or older), disability or genetic information.

2.2. **ENFORCEMENT**

Any applicant or employee who believes they have been subjected to illegal discrimination as outlined in this policy shall report complaints as follows:

- 2.2.1. **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, VETERAN STATUS, OR GENETICS.** Complaints alleging illegal discrimination based on race, color, religion, sex (other than sexual harassment), national origin, veteran status, or genetics shall be reported and addressed as outlined in Davis District Policy 11IR-100 Nondiscrimination Policy and Complaint Procedure.
- 2.2.2. **DISABILITY.** Complaints alleging illegal discrimination based on disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, shall be reported and addressed as outlined in Davis District Policy 11IR-100 Nondiscrimination Policy and Complaint Procedure. Complaints alleging illegal discrimination based on disability related to making reasonable accommodation to known physical or mental limitations shall be reported and addressed as outlined in Davis District Policy 11IR-102 Provision of Reasonable Accommodation to Qualified Individuals with Disabilities.
- 2.2.3. **SEXUAL HARASSMENT.** Complaints alleging illegal discrimination in the form of sexual harassment involving the conduct of an employee or adult visitor to a District worksite shall be reported and addressed as outlined in Davis District Policy 2HR-206 Employee Sexual Harassment ~~Policy~~ Under the Jurisdiction of Title VII. Complaints alleging illegal discrimination in the form of sexual harassment that rise to the level of sexual harassment as defined in Title IX involving the conduct of a student against an employee shall be addressed as outlined in Davis District Policy 5S- 102 ~~Student Sexual Harassment Policy~~ Under the Jurisdiction of Title IX.

3. **Commitment to Compliance with Federal Laws Prohibiting Employment of Unauthorized Aliens**

The Board is committed to employing only persons who are authorized to work in the United States and complies with the Immigration Reform and Control Act of 1986.

- 3.1. As a condition of employment, each new employee must properly complete, sign, and date the first section of the Immigration and Naturalization Service Form I-9. New employees must also supply the documentation required to complete Section 2 of the I-9 Form.
- 3.1.1. Before commencing work, newly rehired employees must also complete the form if they have not previously filed an I-9 with the Human Resources Department, if their previous I-9 is more than three years old, or if their previous I-9 is no longer valid.
- 3.1.2. Decisions regarding hiring or firing of work-eligible individuals shall be based on

performance, behavior, and qualifications; not on language, name, or citizenship status.

- 3.2. In addition to the paper verification process, the District is required, under state law, to use a Status Verification System to verify the federal employment status of all new employees within three (3) days of the employee's hire date.

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**DEFINITIONS**

**"Employee"** means an individual employed by the District including officials, managers, and supervisors.

**"Gender identity"** has the meaning provided in the Diagnostic and Statistical Manual. A person's gender identity can be shown by providing evidence, including, but not limited to, medical history, care and treatment of gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.

**"Pregnancy, childbirth, or pregnancy-related conditions"** includes breastfeeding or medical conditions related to breastfeeding.

**"Sexual Harassment"** means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct: a) Is made explicitly or implicitly a term or condition of employment, or b) Is used as a basis for employment decisions, or c) Has the purpose or effect of unreasonably interfering with work performance or creating an otherwise offensive working environment.

**"Sexual orientation"** means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual.

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**REFERENCES**

**Immigration Reform and Control Act of 1986, 8 U.S.C. 1101**

Employers must verify the employment authorization of newly hired employees. Two types of documentation are required; documentation of right to work and documentation of identity. Posting not specified. The enforcement agency is the Special Counsel's Office of the U.S. Justice Department. Coverage applies to all employers.

**Civil Rights, 42 U.S.C. Chapter 21**

Prohibits discrimination based on race, color, national origin, religion, sex, disability, pregnancy (including childbirth or related condition) in any term, condition, or privilege of employment. Amended 1991. The 1991 Civil Rights Act amended the Civil Rights Act to reverse five cases decided in 1989.

**Age Discrimination in Employment, 29 U.S.C. 621**

Prohibits age discrimination in employment against individuals 40 years of age or older.

**Equal Pay Act of 1962, 29 U.S.C. 201**

Prohibits pay differentials on basis of sex.

**American with Disabilities Act of 1990, 42 U.S.C. 12101**

[Utah Code Ann. Title 34A, Chapter 5](#) - Utah Antidiscrimination Act.

[Utah Code Ann. §63G-12-302](#) - Status verification system - Registration and use.

[Utah Code Ann. Title 71, Chapter 10](#) - Veteran's Preference

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**RELATED POLICY**

[5S-102 Sexual Harassment Under the Jurisdiction of Title IX](#)

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**DOCUMENT HISTORY:**

**Revised: August 15, 1995**

**Revised: July 15, 2008** – Added Veteran’s Preference section to comply with state law and removed employing only U.S. citizens and aliens authorized to work to persons who are authorized to work in the U.S. to comply with federal law.

**Revised: September 22, 2010 (by consent)** – As part of a five-year review, including a reorganization of the Table of Contents, policy was renumbered from 2HR-004 to 2HR-200. Substantially reformatted. Clarified complaint procedures. Eliminated paragraphs on job advertisements and recruitment process.

**Revised: February 19, 2013** – Removed language on conflict of interest in hiring, language revised to reflect State Law, created a new policy 2HR-208 Prohibiting Employment of Relatives.

**Revised: January 5, 2014** – Update in Veteran’s Preference to comply with law.

**Revised: May 20, 2015** – Updated consistent with changes in State law. Sexual orientation and gender identity included as protected classes in employment decisions. Expands protection for pregnancy to childbirth and pregnancy related conditions.

**Revised:** - Five-year review. Non-substantive changes to comply with current practice.