

**NONDISCRIMINATION IN EMPLOYMENT**

The Governing Board is determined to provide district employees and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. The Board prohibits district employees from discriminating against or harassing any other district employee or job applicant on the basis of the person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*

The Board also prohibits discrimination against any employee or job applicant in compensation, terms, conditions, and other privileges of employment and the taking of any adverse employment action, including, but not limited to, termination or the denial of employment, promotion, job assignment, or training, against an employee or job applicant based on any of the categories listed above.

*(cf. 4032 - Reasonable Accommodation)*  
*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

Prohibited discrimination on the basis of religious creed includes discrimination based on an employee's or job applicant's religious belief or observance, including his/her religious dress or grooming practices. In accordance with Government Code 12940, prohibited discrimination on the basis of religious creed also includes the district's failure or refusal to use reasonable means to accommodate an employee's or job applicant's religious belief, observance, or practice which conflicts with an employment requirement. However, the district shall not accommodate an employee's religious dress practice or religious grooming practice if it requires segregation of the individual from other employees or the public or if it would result in a violation of this policy or any law prohibiting discrimination.

Prohibited sex discrimination includes discrimination based on an employee's or job applicant's pregnancy, childbirth, breastfeeding, or any related medical condition.

*(cf. 4033 - Lactation Accommodation)*

Harassment consists of unwelcome verbal, physical, or visual conduct that is based on any of the prohibited categories of discrimination listed above and that is so severe or pervasive that it adversely affects an individual's employment opportunities, has the purpose or effect of unreasonably interfering with the individual's work performance, or creates an intimidating, hostile, or offensive work environment.

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

The Board also prohibits retaliation against any district employee or job applicant who opposes any discriminatory employment practice by the district or its employee, agent, or representative or who complains, testifies, assists, or in any way participates in the district's complaint procedures pursuant to this policy. No employee or job applicant 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)

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 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 does report such incidents from retaliation.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment and discrimination, 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.

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*Legal Reference: (see next page)*

## **NONDISCRIMINATION IN EMPLOYMENT (continued)**

### *Legal Reference:*

#### 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*

#### PENAL CODE

422.56 *Definitions, hate crimes*

#### CODE OF REGULATIONS, TITLE 2

11019 *Terms, conditions and privileges of employment*

#### 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

*Shephard 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*, December 2014

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

*Notice of Non-Discrimination*, August 2010

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

*Questions and Answers: Religious Discrimination in the Workplace*, 2008

*New Compliance Manual Section 15: Race and Color Discrimination*, April 2006

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

*Management Resources continued: (see next page)*

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

*Management Resources: (continued)*

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  
adopted: September 8, 2015  
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**PANAMA-BUENA VISTA UNION SCHOOL DISTRICT**  
Bakersfield, California