Sex Discrimination & Sex-based Harassment

Adopted: 04/21/1998 **|** **Last Revised**: 09/03/2024 **|** **Last Reviewed**: 09/03/2024

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Board of Education is committed to providing a safe work environment that is free of discrimination, harassment and intimidation. The Board prohibits sexual discrimination, including sex-based harassment, as defined in the accompanying rule, in district programs and activities by and against district employees.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy.

Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and Board rule
2. Publicizing and disseminating the district's sexual harassment sex discrimination and sex-based harassment policy to staff employees and others to whom the policy may apply
3. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments
5. Publicizing, in accordance with 34 CFR 106.8 and as specified in Board Rule 4030 - Nondiscrimination in Employment, a Title IX notice of nondiscrimination to employees, applicants for employment, and bargaining units

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to the harassment policy, complaint procedures, or training, as appropriate and in accordance with law.

Reports and Complaints

Any district employee who has experienced sex discrimination or sex-based harassment in the district's education program or activity may file a complaint with the district's Title IX Coordinator.

Any employee with knowledge of conduct that reasonably may constitute as sex discrimination or sex-based harassment by or against another district employee, a student, or a third party in a district education program or activity shall notify the Title IX Coordinator within one workday. An employee may be subject to discipline for failure to timely report such conduct.

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Board Rule 4119.12 / 4219.12 / 4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures or Board Rule 4030 Nondiscrimination in Employment, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of Board Rule 4119.12 / 4219.12 / 4219.12 / 4319.12 concurrently meets the requirements of Board Rule 4030.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.

Upon investigation of a sexual harassment complaint, any district employee found to have engaged or participated in sexual harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

Policy Reference Disclaimer:
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.

Legal References:

STATE

CALIFORNIA CODE OF REGULATION
2 CCR 11006-11086 Discrimination in employment
2 CCR 11009 Employment discrimination
2 CCR 11021 Discrimination in employment - retaliation
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 11034 Terms, conditions, and privileges of employment
5 CCR 4900-4965 Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

EDUCATION CODE
200-262.4 Prohibition of discrimination
220.1 Prohibition of retaliation related to educational equity
220.3 Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
220.5 Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

GOVERNMENT CODE
12900-12996 Fair Employment and Housing Act
12940 Unlawful discriminatory employment practices
12950 Sexual harassment
12950.1 Sexual harassment training

CALIFORNIA LABOR CODE
1101 Political activities of employees
1102.1 Discrimination: sexual orientation
1197.5 Wages, hours, and working conditions

FEDERAL

UNITED STATES CODE
20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex
42 USC 2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
42 USC 2000gg-2000gg-6 Pregnant Workers Fairness Act
CODE OF FEDERAL REGULATIONS
29 CFR 1636 Implementation of the Pregnant Workers Fairness Act
34 CFR 106.1-106.82 Nondiscrimination on the basis of sex in education programs

MANAGEMENT RESOURCES

COURT DECISION
Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
FEDERAL REGISTER
Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. EQUAL EMPLOYMENT OPPORTUNITY COM. PUBLICATION
Promising Practices for Preventing Harassment, November 2017
WEBSITE
CSBA District and County Office of Education Legal Services https://legalservices.csba.org/#
California Department of Education http://www.cde.ca.gov/
California Civil Rights Department https://calcivilrights.ca.gov/
U.S. Department of Education, Office for Civil Rights http://www2.ed.gov/ocr
Equal Employment Opportunity Commission http://www.eeoc.gov/

Rule Adopted:	04/21/1998
Revised:	05/21/2002
Revised:	09/21/2004
Revised:	04/04/2006
Revised:	04/19/2016
Revised:	09/03/2024