

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

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.

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; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; physical or mental disability; medical condition; genetic information; veteran or military status; sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; or association with a person or group with one or more of these actual or perceived characteristics.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decision-making, 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 such inquiry is necessary to comply with federal immigration law. (2 CCR 11028)

Unless otherwise provided for in law, the district may not discriminate against an employee, including an applicant for employment, in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

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. Hiring, compensation, terms, conditions, and other privileges of employment
2. Taking adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is offensive and 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 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 or 2 CCR 11006-11086, such as:
 - a. Sex discrimination as specified in Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based 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
 - c. 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
 - 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

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee

- e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision-making

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; 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 a release of the employee's claim or right to file a claim against the district or 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 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. 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.

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 or designated district coordinator within one workday. All other employees shall report such incidents to their supervisor or designated district coordinator within one workday.

The Superintendent or designee shall use all appropriate means to reinforce

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, 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.

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)

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.

State	Description
2 CCR 11006-11086	Discrimination in employment
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 11027-11028	National origin and ancestry discrimination
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>

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

<i>Ed. Code 200-262.4</i>	<u>Prohibition of discrimination</u>
<i>Gov. Code 11135</i>	<u>Prohibition of discrimination</u>
<i>Gov. Code 12900-12996</i>	<u>Fair Employment and Housing Act</u>
<i>Gov. Code 12940-12954</i>	<i>Unlawful employment practices</i>
<i>Gov. Code 12960-12976</i>	<u>Unlawful employment practices; complaints</u>
<i>Lab. Code 1030-1034</i>	<i>Lactation accommodation</i>
<i>Lab. Code 1197.5</i>	<i>Wages, hours and working conditions</i>
<i>Lab. Code 79-107</i>	<i>Division of Labor Standards Enforcement</i>
<i>Pen. Code 422.56</i>	<u>Definitions; hate crimes</u>
Federal	Description
<i>20 USC 1681-1688</i>	<i>Title IX of the Education Amendments of 1972; discrimination based on sex</i>
<i>28 CFR 35.101-35.190</i>	<i>Americans with Disabilities Act</i>
<i>29 CFR 1636</i>	<i>Implementation of the Pregnant Workers Fairness Act</i>
<i>29 USC 218d</i>	<i>Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act</i>
<i>29 USC 621-634</i>	<i>Age Discrimination in Employment Act</i>
<i>29 USC 794</i>	<i>Rehabilitation Act of 1973; Section 504</i>
<i>34 CFR 100.6</i>	<i>Title VI; Compliance information</i>
<i>34 CFR 104.7</i>	<i>Section 504; Designation of responsible employee and adoption of grievances procedures</i>
<i>34 CFR 104.8</i>	<i>Notice of Nondiscrimination on the Basis of Handicap</i>
<i>34 CFR 106.1-106.82</i>	<i>Discrimination on the basis of sex; effectuating Title IX</i>
<i>34 CFR 110.1-110.39</i>	<i>Nondiscrimination on the basis of age</i>
<i>42 USC 12101-12213</i>	<i>Americans with Disabilities Act</i>
<i>42 USC 2000d-2000d-7</i>	<i>Title VI, Civil Rights Act of 1964</i>
<i>42 USC 2000e-2000e-17</i>	<i>Title VII, Civil Rights Act of 1964, as amended</i>
<i>42 USC 2000ff-2000ff-11</i>	<i>Genetic Information Nondiscrimination Act of 2008</i>
<i>42 USC 2000gg-2000gg-6</i>	<i>Pregnant Workers Fairness Act</i>
<i>42 USC 2000h-2-2000h-6</i>	<i>Title IX of the Civil Rights Act of 1964</i>
<i>42 USC 6101-6107</i>	<i>Age discrimination in federally assisted programs</i>
<i>Executive Order 11246</i>	<u>Equal Employment Opportunity</u>
<i>U.S. Constitution, First Amendment</i>	<u>Free exercise, free speech, and establishment clauses</u>
Management Resources	Description
<i>CA Civil Rights Department Publication</i>	<u>Sexual Harassment, January 2023</u>
<i>CA Civil Rights Department Publication</i>	<u>Family Care and Medical Leave and Pregnancy Disability Leave, January 2023</u>
<i>CA Civil Rights Department Publication</i>	<u>California Law Prohibits Workplace Discrimination and Harassment, January 2024</u>
<i>CA Civil Rights Department Publication</i>	<u>The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022</u>
<i>CA Civil Rights Department Publication</i>	<u>Harassment Prevention Guide for California Employers, 2017</u>

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

CA Civil Rights Department Publication	<u>Your Rights and Obligations as a Pregnant Employee, January 2023</u>
Court Decision	<i>Burlington Industries, Inc v. Ellerth</i> (1998) 524 U.S. 742
Court Decision	<i>Faragher-Ellerth v. City of Boca Raton</i> (1998) 524 U.S. 775
Court Decision	<i>Groff v. DeJoy</i> (2023) 600 U.S. 447
Court Decision	<i>Kennedy v. Bremerton</i> (2022) 142 S.Ct. 2407
Court Decision	<i>Shephard v. Loyola Marymount</i> (2002) 102 Cal.App. 4th 837
Court Decision	<i>Thomson v. North American Stainless LP</i> (2011) 62 U.S. 170
Federal Register	<u>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>
U.S. Department of Education Publication	<u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</u>
U.S. Equal Employment Opportunity Comm Publication	<u>Know Your Rights: Workplace Discrimination is Illegal, 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>

Cross References

Policy	Description
0410	<u>Nondiscrimination In District Programs And Activities</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>
1312.1	<u>Complaints Concerning District Employees</u>

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

1312.1	<u>Complaints Concerning District Employees</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3312	<u>Contracts</u>
3530	<u>Risk Management/ Insurance</u>
3530	<u>Risk Management/ Insurance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
3600	<u>Consultants</u>
4000	<u>Concepts And Roles</u>
4032	<u>Reasonable Accommodation</u>
4033	<u>Lactation Accommodation</u>
4111	<u>Recruitment And Selection</u>
4111.2	<u>Legal Status Requirement</u>
4111.2	<u>Legal Status Requirement</u>
4112.4	<u>Health Examinations</u>
4112.41	<u>Employee Drug Testing</u>
4112.41	<u>Employee Drug Testing</u>
4112.5	<u>Criminal Record Check</u>
4112.5-E(1)	<u>Criminal Record Check</u>
4112.6	<u>Personnel Files</u>
4112.8	<u>Employment Of Relatives</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.5	<u>Working Remotely</u>
4114	<u>Transfers</u>
4118	<u>Dismissal/ Suspension/ Disciplinary Action</u>
4118	<u>Dismissal/ Suspension/ Disciplinary Action</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
4119.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
4119.22	<u>Dress And Grooming</u>
4119.23	<u>Unauthorized Release Of Confidential/ Privileged</u>
	<u>Information</u>
4119.41	<u>Employees With Infectious Disease</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

4144	<u>Complaints</u>
4151	<u>Employee Compensation</u>
4154	<u>Health And Welfare Benefits</u>
4154	<u>Health And Welfare Benefits</u>
4161.5	<u>Military Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4211	<u>Recruitment And Selection</u>
4211.2	<u>Legal Status Requirement</u>
4211.2	<u>Legal Status Requirement</u>
4212.4	<u>Health Examinations</u>
4212.41	<u>Employee Drug Testing</u>
4212.41	<u>Employee Drug Testing</u>
4212.6	<u>Personnel Files</u>
4212.8	<u>Employment Of Relatives</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4213.5	<u>Working Remotely</u>
4218	<u>Dismissal/ Suspension/ Disciplinary Action</u>
4218	<u>Dismissal/ Suspension/ Disciplinary Action</u>
4218.1	<u>Dismissal/ Suspension/ Disciplinary Action (Merit System)</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.12	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
4219.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
4219.22	<u>Dress And Grooming</u>
4219.23	<u>Unauthorized Release Of Confidential/ Privileged Information</u>
4219.41	<u>Employees With Infectious Disease</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4251	<u>Employee Compensation</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4261.5	<u>Military Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4311	<u>Recruitment And Selection</u>
4311.2	<u>Legal Status Requirement</u>
4311.2	<u>Legal Status Requirement</u>
4312.4	<u>Health Examinations</u>

Personnel

NONDISCRIMINATION IN EMPLOYMENT

BP 4030

4312.41	<u>Employee Drug Testing</u>
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4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
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4319.23	<u>Unauthorized Release Of Confidential/ Privileged</u>
	<u>Information</u>
4319.41	<u>Employees With Infectious Disease</u>
4331	<u>Staff Development</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4351	<u>Employee Compensation</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>
4361.5	<u>Military Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint Procedures</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>

Policy

PASADENA UNIFIED SCHOOL DISTRICT

Adopted: August 28, 2012

Pasadena, California

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11/21/2024