Nondiscrimination in Employment

Adopted: 04/21/1998 **| Last Revised**: 03/18/2025 **| Last Reviewed**: 03/18/2025

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this 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.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Director of Personnel
1305 E. Vine St.
Lodi, CA 95240
(209) 331-7095

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Civil Rights Department (CRD) posters on the prohibition of workplace discrimination and harassment, including sex-based harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth

2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by:
    a. Posting them in all district schools and offices, including staff lounges and other prominent locations
    b. Posting them on the district's website and providing easy access to them through district-supported social media, when available

3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods:
    a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
    b. Sending a copy via email with an acknowledgment return form
    c. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies

d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
e. Any other way that ensures employees receive and understand the policy

4. Post in a prominent location on the district's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following:
    a. The district does not discriminate on the basis of sex in any education program or activity that it operates
    b. Inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or the U.S. Department of Education Office for Civil Rights
    c. The name or title, office and email address, and telephone number of the district's Title IX Coordinator
    d. How to locate the district's nondiscrimination policy and the district's grievance procedures for Title IX complaints
    e. How to report conduct that may constitute sex discrimination under Title IX
    f. How to make a complaint of Title IX sex discrimination If necessary due to the format or size of any publication specified above, the district may include only the statement that the district prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location of the complete notice on the district's website.

5. Provide to employees information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior

6. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law and Board Policy 4111 - Recruitment and Selection

7. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce

Complaint Procedure
Any complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

    The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

    A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. Investigation Process: The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

   The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

   If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

   The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

   When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

   The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. Written Report on Findings and Remedial/Corrective Action: No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

   The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

   A summary of the findings shall be presented to the complainant and the person accused.

4. Appeal to the Board of Education: The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either CRD or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with CRD alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960

2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s)

3. For filing a complaint with EEOC after first filing a complaint with CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier

An employee may also file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the PUMP Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act.

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034.

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 REGULATIONS

2 CCR 11006-11086 Discrimination in employment

2 CCR 11023 Harassment and discrimination prevention & correction

2 CCR 11024 Required training & education on harassment based on sex, gender identity & expression, & 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 Inalienable rights

CIVIL CODE

51.7 Freedom from violence or intimidation

EDUCATION CODE

200-262.4 Prohibition of discrimination

GOVERNMENT CODE
11135 Prohibition of discrimination
12900-12996 Fair Employment and Housing Act
12940-12954 Unlawful employment practices
12960-12976 Unlawful employment practices; complaints
LABOR CODE
1030-1034 Lactation Accommodation
1197.5 Wages, hours, and working conditions
79-107 Division of Labor Standards Enforcement
PENAL CODE
422.56 Definitions; hate crimes

FEDERAL

CODE OF FEDERAL REGULATION
28 CFR 35.101-35.190 Americans with Disabilities Act
29 CFR 1636 Implementation of the Pregnant Workers Fairness Act
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 106.1-106.82 Discrimination on the basis of sex; effectuating Title IX
34 CFR 110.1-110.39 Nondiscrimination on the basis of age
UNITED STATES CODES
20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex
29 USC 218d Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act
29 USC 621-634 Age Discrimination in Employment Act
29 USC 794 Rehabilitation Act of 1973; Section 504
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 2000gg-2000gg-6 Pregnant Workers Fairness Act
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
UNITED STATES CONSTITUTION
First Amendment Free exercise, free speech, and establishment clauses

MANAGEMENT RESOURCES

CA CIVIL RIGHTS DEPARTMENT PUBLICATION
Sexual Harassment, January 2023
Family Care and Medical Leave and Pregnancy Disability Leave, January 2023
California Law Prohibits Workplace Discrimination and Harassment, January 2024
The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022
Harassment Prevention Guide for California Employers, 2017
Your Rights and Obligations as a Pregnant Employee, January 2023
COURT DECISION
Burlington Northern and Santa Fe Ry. Co. v. White (2006) 548 U.S. 53
Tennessee v. Cardona (2024) 737 F.Supp.3d 510
Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581
McDonnell Douglas Corp v. Green (1973) 411 U.S. 792
John T. D. v. River Delta Joint Unified School District (2021) WL 5176356
Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742
Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775
Groff v. DeJoy (2023) 600 U.S. 447
Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Shephard v. Loyola Marymount (2002) 102 Cal.App. 4th 837
Thomson v. North American Stainless LP (2011) 62 U.S. 170
FEDERAL REGISTER

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, May 19, 2020, Vol. 85, No. 97, pages 30026-30579
U.S. DEPARTMENT OF EDUCATION PUBLICATION
Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
U.S. DOE, OFFICE FOR CIVIL RIGHTS PUBLICATION
Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMM PUBLICATION
EEOC Compliance Manual
WEBSITES
U.S. Department of Labor, Office of Federal Contract Compliance Program
https://www.dol.gov/agencies/ofccp/executive-order-11246
CSBA District and County Office of Education Legal Services https://legalservices.csba.org/#
California Department of Industrial Relations http://www.dir.ca.gov/
California Civil Rights Department https://calcivilrights.ca.gov/
U.S. Department of Education, Office for Civil Rights http://www2.ed.gov/ocr
U.S. Equal Employment Opportunity Commission http://www.eeoc.gov/

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