

## NONDISCRIMINATION IN EMPLOYMENT

All complaints alleging discrimination in employment, as defined in the accompanying Board policy, shall be investigated and resolved in accordance with procedures specified in this administrative regulation. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sexual 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:

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### Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or Assistant Superintendent 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, 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 (Government Code 12950; 2 CCR 11013, 11023, 11049)
2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (Education Code 234.1; 5 CCR 4960; 34 CFR 100.6, 106.8)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment

- b. Posting them in all district schools and offices, including staff lounges and other prominent locations
  - c. 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: (2 CCR 11023)
- 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
2. Provide to employees a handbook which contains 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
3. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made
- The district may also provide bystander intervention training to employees that includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)
4. 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
5. 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 (2 CCR 11023)

## **Complaint Procedure**

Complaints of sexual harassment shall be investigated and resolved in accordance with AR

4119.12/4219.12/4319.12 – Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.

Any other 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, the names of 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 or Assistant Superintendent 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 or Assistant Superintendent should interview the complainant, the person(s) 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 Assistant Superintendent, 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 30 business days after receiving the complaint, the coordinator or Assistant Superintendent shall conclude the investigation and prepare a written report of the findings. This timeline may be extended by the coordinator 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 Assistant Superintendent.

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

4. **Appeal to the Governing Board:** The complainant or respondent may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or Assistant Superintendent 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 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
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 (42 USC 2000e-5)

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 EEOC for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC

2000gg-2)

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. (Labor Code 1034)

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**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 Governing Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
2 CCR 11006-11086	Discrimination in employment
2 CCR 11023	<u>Harassment and discrimination prevention and correction</u>
2 CCR 11024	<u>Required training and education on harassment based on sex, gender identity and expression, and sexual orientation</u>
2 CCR 11027-11028	<u>National origin and ancestry discrimination</u>
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>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Gov. Code 11135	<u>Prohibition of discrimination</u>
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940-12954	<u>Unlawful employment practices</u>
Gov. Code 12960-12976	<u>Unlawful employment practices; complaints</u>
Lab. Code 1030-1034	<u>Lactation Accommodation</u>
Lab. Code 1197.5	<u>Wages, hours, and working conditions</u>
Lab. Code 79-107	<u>Division of Labor Standards Enforcement</u>
Pen. Code 422.56	<u>Definitions; hate crimes</u>
<b>Federal</b>	<b>Description</b>
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
29 CFR 1636	<u>Implementation of the Pregnant Workers Fairness Act</u>

29 USC 218d	<a href="#"><u>Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act</u></a>
29 USC 621-634	<a href="#"><u>Age Discrimination in Employment Act</u></a>
29 USC 794	<a href="#"><u>Rehabilitation Act of 1973; Section 504</u></a>
34 CFR 100.6	<a href="#"><u>Title VI; Compliance information</u></a>
34 CFR 104.7	<a href="#"><u>Section 504; Designation of responsible employee and adoption of grievances procedures</u></a>
34 CFR 104.8	<a href="#"><u>Notice of Nondiscrimination on the Basis of Handicap</u></a>
34 CFR 106.1-106.82	<a href="#"><u>Discrimination on the basis of sex; effectuating Title IX</u></a>
34 CFR 110.1-110.39	<a href="#"><u>Nondiscrimination on the basis of age</u></a>
42 USC 12101-12213	<a href="#"><u>Americans with Disabilities Act</u></a>
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	<a href="#"><u>Genetic Information Nondiscrimination Act of 2008</u></a>
42 USC 2000gg-2000gg-6	<a href="#"><u>Pregnant Workers Fairness Act</u></a>
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	<a href="#"><u>Age discrimination in federally assisted programs</u></a>
U.S. Constitution, First Amendment	<a href="#"><u>Free exercise, free speech, and establishment clauses</u></a>
<b>Management Resources</b>	<b>Description</b>
CA Civil Rights Department Publication	<a href="#"><u>Sexual Harassment, January 2023</u></a>
CA Civil Rights Department Publication	<a href="#"><u>Family Care and Medical Leave and Pregnancy Disability Leave, January 2023</u></a>
CA Civil Rights Department Publication	<a href="#"><u>California Law Prohibits Workplace Discrimination and Harassment, January 2024</u></a>
CA Civil Rights Department Publication	<a href="#"><u>The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022</u></a>
CA Civil Rights Department Publication	<a href="#"><u>Harassment Prevention Guide for California Employers, 2017</u></a>
CA Civil Rights Department Publication	<a href="#"><u>Your Rights and Obligations as a Pregnant Employee, January 2023</u></a>
Court Decision	Burlington Northern and Santa Fe Ry. Co. v. White (2006) 548 U.S. 53
Court Decision	Tennessee v. Cardona (2024) 737 F.Supp.3d 510

Court Decision	<a href="#">Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581</a>
Court Decision	<a href="#">McDonnell Douglas Corp v. Green (1973) 411 U.S. 792</a>
Court Decision	<a href="#">John T. D. v. River Delta Joint Unified School District (2021) WL 5176356</a>
Court Decision	<a href="#">Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742</a>
Court Decision	<a href="#">Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775</a>
Court Decision	<a href="#">Groff v. DeJoy (2023) 600 U.S. 447</a>
Court Decision	<a href="#">Kennedy v. Bremerton (2022) 142 S.Ct. 2407</a>
Court Decision	<a href="#">Shephard v. Loyola Marymount (2002) 102 Cal.App. 4th 837</a>
Court Decision	<a href="#">Thomson v. North American Stainless LP (2011) 62 U.S. 170</a>
Federal Register	<a href="#">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</a>
U.S. Department of Education Publication	<a href="#">Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</a>
U.S. DOE, Office for Civil Rights Publication	<a href="#">Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025</a>
U.S. Equal Employment Opportunity Comm Publication	<a href="#">EEOC Compliance Manual</a>
Website	<a href="#">U.S. Department of Labor, Office of Federal Contract Compliance Program</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California Department of Industrial Relations</a>
Website	<a href="#">California Civil Rights Department</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>
Website	<a href="#">U.S. Equal Employment Opportunity Commission</a>

## Cross References

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
1113	District And School Websites
1113	District And School Websites

1113	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1240	Volunteer Assistance
1240	Volunteer Assistance
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1313	Civility
3312	Contracts
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
3600	Consultants
4000	Concepts And Roles
4032	Reasonable Accommodation
4033	Lactation Accommodation
4111	Recruitment And Selection
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.4	Health Examinations
4112.41	Employee Drug Testing
4112.41	Employee Drug Testing
4112.5	Criminal Record Check
4112.5	Criminal Record Check
4112.6	Personnel Files

4112.8	Employment Of Relatives
4112.9	Employee Notifications
4112.9	Employee Notifications
4113.5	Working Remotely
4114	Transfers
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.22	Dress And Grooming
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.41	Employees With Infectious Disease
4131	Staff Development
4144	Complaints
4144	Complaints
4151	Employee Compensation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4161.5	Military Leave
4161.8	Family Care And Medical Leave
4211	Recruitment And Selection
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212.4	Health Examinations
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing

4212.6	Personnel Files
4212.8	Employment Of Relatives
4212.9	Employee Notifications
4212.9	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.12	Title IX Sexual Harassment Complaint Procedures
4219.12	Title IX Sexual Harassment Complaint Procedures
4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.41	Employees With Infectious Disease
4231	Staff Development
4244	Complaints
4244	Complaints
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4261.5	Military Leave
4261.8	Family Care And Medical Leave
4311	Recruitment And Selection
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.4	Health Examinations
4312.41	Employee Drug Testing

4312.41	Employee Drug Testing
4312.6	Personnel Files
4312.8	Employment Of Relatives
4312.9	Employee Notifications
4312.9	Employee Notifications
4313.5	Working Remotely
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.12	Title IX Sexual Harassment Complaint Procedures
4319.12	Title IX Sexual Harassment Complaint Procedures
4319.22	Dress And Grooming
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.41	Employees With Infectious Disease
4331	Staff Development
4344	Complaints
4344	Complaints
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.5	Military Leave
4361.8	Family Care And Medical Leave
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71	Title IX Sexual Harassment Complaint Procedures
9000	Role Of The Board
9321	Closed Session
9321	Closed Session
9321	Closed Session