

Board Policy

BP 4030

Personnel

NONDISCRIMINATION IN EMPLOYMENT

The Board of Trustees is determined to provide a safe, positive environment for all District employees and strives to provide all employees full and equal employment access and opportunities, protection from unlawful 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, and interns, volunteers.

District employees are prohibited from discriminating against or harassing any coworker, supervisor, manager, volunteer, intern, student, or other person with whom the employee comes in contact in the course of employment, on the basis of the person’s actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics (collectively referred to as “protected classifications”).

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 it is necessary to comply with federal immigration law. (2 CCR § 11028)

Discrimination in employment based on the characteristics listed above may include:

1. Discrimination based on a protected classification in hiring, compensation, terms, conditions, and other privileges of employment;
2. Unwelcome conduct based on a protected classification, whether verbal, physical, or visual, that is 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 individual's work performance or creating an intimidating, hostile, or offensive work environment;
3. Discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status;
4. Discrimination based on an employee's religious belief or observance, including religious dress or grooming practices;
5. Discrimination against an employee based on the employee’s actual or perceived mental

disability, physical disability, or medical condition;

6. Failure to make reasonable accommodation for an employee's known physical or mental disability, unless the employee is unable to perform the essential functions of his or her position, with or without reasonable accommodations;

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7. Failure to engage in a timely, good faith, interactive process with an employee with a known disability who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee.

The District also prohibits retaliation against any District employee who opposes any discriminatory employment practice by the District or its employees, agents, or representatives by filing a complaint, testifying as a witness, assisting, or otherwise participating in the District's complaint process pursuant to this policy. No employee who requests an accommodation for his/her disability or religious beliefs shall be subjected to any punishment or sanction for making the request, regardless of whether the request was granted. (Government Code § 12940; 2 CCR § 11028)

Complaints alleging sexual harassment as defined by Title IX of the Education Amendments of 1972 shall be promptly investigated and resolved in accordance with AR 4119.3/4219.3/4319.3 – Sexual Harassment. All other complaints concerning discrimination, harassment, or retaliation against any District employee shall promptly be investigated in accordance with procedures specified in District BP/AR 1312.1 – Complaints Concerning District Employees unless the complaint fits the scope of BP/AR and 1312.3 – Uniform 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 as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

The Superintendent or designee shall use all appropriate means to reinforce the District's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other related 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.

References:

BP 0410 - Nondiscrimination in District Programs and Activities
BP/AR 1240 - Volunteer Assistance
BP/AR 1312.1 – Complaints Concerning District Employees
BP 3312 - Contracts
BP/AR 3600 - Consultants
AR 4032 - Reasonable Accommodation
BP 4033 - Lactation Accommodation
BP 4111/4211/4311 - Recruitment and Selection
BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment
BP 4119.41/4219.41/4319.41 - Employees with Infectious Disease
BP 4151/4251 - Employee Compensation
BP 4154/4254/4354 - Health and Welfare Benefits
AR 4218 - Dismissal/Suspension/Disciplinary Action

Legal References:

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, especially:
12940-12952 Unlawful employment practices
12960-12976 Unlawful employment practices; complaints
CODE OF REGULATIONS, TITLE 2
11006-11086 Discrimination in employment, especially:
11013 Recordkeeping
11019 Terms, conditions and privileges of employment
11023 Harassment and discrimination prevention and correction
11024 Sexual harassment training and education
11027-11028 National origin and ancestry discrimination
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
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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
Management Resources:
CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS
California Law Prohibits Workplace Discrimination and Harassment
Transgender Rights in the Workplace
Workplace Harassment Guide for California Employers
Your Rights and Obligations as a Pregnant Employee
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Notice of Non-Discrimination, August 2010
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS EEOC
Compliance Manual
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>

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