

# **Plumas County & USD**

## **Board Policy**

### **Nondiscrimination In Employment**

BP 4030

#### **Personnel**

**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.**

**(cf. 1240 - Volunteer Assistance)**

**(cf. 3312 - Contracts)**

**(cf. 3600 - Consultants)**

**(cf. 4111/4211/4311 - Recruitment and Selection)**

**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, 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.**

**(cf. 0410 - Nondiscrimination in District Programs and Activities)**

**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 is prohibited in all areas of employment and in all employment-related practices, including the following:**

**1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment**

**(cf. 4151/4251/4351 - Employee Compensation)**

**(cf. 4154/4254/4354 - Health and Welfare Benefits)**

**2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training**

**3. Unwelcome conduct, 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**

**4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:**

**a. Sex 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**

**(cf. 4033 - Lactation Accommodation)**

**(cf. 4119.11/4219.11/4319.11 - Sexual 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**

**(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)**

**c. Requirement for a medical or psychological examination of a job applicant, or 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**

**(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)**

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

**(cf. 4032 - Reasonable Accommodation)**

**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, 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 any document that releases the employee's right to file a claim against the district or to disclose information about harassment or other unlawful employment practices. (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.

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 district shall protect any employee who reports such incidents from retaliation.

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.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

**Legal Reference:**

**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

**PENAL CODE**

**422.56** Definitions, hate crimes

**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**

**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**

**COURT DECISIONS**

**Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863**

**Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837**

**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**

**Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by**

**Supervisors, June 1999**

**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>

~~The Governing Board prohibits discrimination against and/or harassment of district employees and job applicants at any district site or activity on the basis of actual or perceived race, religion, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, sex, or sexual orientation.~~

~~(cf. 0410—Nondiscrimination in District Programs and Activities)~~

~~(cf. 4032—Reasonable Accommodation)~~

~~(cf. 4119.11/4219.11/4319.11—Sexual Harassment)~~

~~(cf. 4119.41/4219.41/4319.41—Employees with Infectious Disease)~~

~~(cf. 4154/4254/4354—Health and Welfare Benefits)~~

~~(cf. 5145.7—Sexual Harassment)~~

~~Prohibited discrimination or harassment consists of unwelcome conduct, whether verbal, physical, or visual, based on any of the prohibited categories of discrimination listed above that it is so severe and pervasive that it adversely affects an individual's employment opportunities or has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile, or offensive work environment.~~

~~The Board also prohibits retaliation against any district employee or job applicant who complains, testifies, assists, or in any way participates in the district's complaint procedures instituted pursuant to this policy.~~

~~Any district employee who engages or participates in prohibited discrimination or harassment, or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior, shall be in violation of this policy and shall be subject to disciplinary action, up to and including dismissal.~~

~~(cf. 4117.4—Dismissal)~~

~~(cf. 4118—Suspension/Disciplinary Action)~~

~~(cf. 4218—Dismissal/Suspension/Disciplinary Action)~~

~~The Board designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment:~~

~~Superintendent~~

~~50 Church Street~~

~~Quincy, California 95971~~

~~530 283-6500 ext. 217~~

~~Any employee or job applicant who believes that he/she has been or is being discriminated against or harassed in violation of district policy or regulation should immediately contact his/her supervisor, the Coordinator, or the Superintendent who shall advise the employee or applicant about the district's procedures for filing, investigating, and resolving any such complaints.~~

~~Complaints regarding employment discrimination or harassment shall immediately be investigated in accordance with AR 4031—Complaints Concerning Discrimination in Employment.~~

~~(cf. 4031—Complaints Concerning Discrimination in Employment)~~

~~Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to his/her supervisor, the Coordinator, or Superintendent as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.~~

#### ~~Training and Notifications~~

~~The Superintendent or designee shall provide training to employees about how to recognize harassment and discrimination, how to respond appropriately, and components of the district's policies and regulations regarding discrimination.~~

~~(cf. 4131—Staff Development)~~

~~(cf. 4231—Staff Development)~~

~~(cf. 4331—Staff Development)~~

~~The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin, or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)~~

~~The district's policy shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)~~

#### ~~Legal Reference:~~

##### ~~EDUCATION CODE~~

~~200-262.4—Prohibition of discrimination~~

##### ~~CIVIL CODE~~

~~51.7—Freedom from violence or intimidation~~

##### ~~GOVERNMENT CODE~~

~~11135—Unlawful discrimination~~

~~12900-12996—Fair Employment and Housing Act~~  
~~PENAL CODE~~  
~~422.56—Definitions, hate crimes~~  
~~CODE OF REGULATIONS, TITLE 2~~  
~~7287.6 Terms, conditions and privileges of employment~~  
~~CODE OF REGULATIONS, TITLE 5~~  
~~4900-4965—Nondiscrimination in elementary and secondary education~~  
~~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~~  
~~12101-12213—Americans with Disabilities Act~~  
~~CODE OF FEDERAL REGULATIONS, TITLE 28~~  
~~35.101-35.190—Americans with Disabilities Act~~  
~~CODE OF FEDERAL REGULATIONS, TITLE 34~~  
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~~104.7—Designation of responsible employee for Section 504~~  
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~~106.9—Dissemination of policy~~  
~~COURT DECISIONS~~  
~~Shephard v. Loyola Marymount, (2002) 102 CalApp.4th 837~~

#### Management Resources:

#### ~~EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS~~

~~Questions and Answers: Religious Discrimination in the Workplace, 2008~~

~~Enforcement Guidance:—Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002~~

~~Enforcement Guidance:—Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999~~

#### ~~U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS~~

~~Notice of Non-Discrimination, January 1999~~

#### ~~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>~~

~~adopted: December 13, 2011~~ **Reviewed: September 9, 2020**

Quincy, California