

Personnel

NONDISCRIMINATION IN EMPLOYMENT

The Board of Education is committed to providing a safe, positive environment where all District employees are assured of full and equal employment access and opportunities, protection from discrimination and/or harassment, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy, and the corresponding administrative regulation, applies to all District employees and, when applicable, also applies to job applicants, unpaid interns, volunteers, and persons providing services pursuant to a contract.

(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 individuals with whom the employee comes in contact during the course and scope of employment, on the basis of the employee's actual or perceived race, religious creed, color, national origin, citizenship, ancestry, age, marital status, parental status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation 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)

Prohibited Conduct

Discrimination in employment based on any of the characteristics listed above is prohibited in all areas of employment and in all employment-related practices including, but not limited to, the following:

1. Decisions in hiring, compensation, terms, conditions, and/or other privileges of employment.
2. The taking of any adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training.

(cf. 4151/4251/4351 - Salary Guides)

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

3. Sexual harassment as defined in Board Policy 4119.11 – Sexual Harassment.

(cf. 4119.11- Sexual Harassment)

NONDISCRIMINATION IN EMPLOYMENT (continued)

4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code section 12940 or California Code of Regulations, title 2, sections 11006-11086, including but not limited to:

- 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 - 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 - Dress and Grooming)

- c. Disability discrimination based on a District 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; and

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

- d. Disability discrimination based on the District's 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, to determine effective reasonable accommodations for the employee, when the employee has requested reasonable accommodation for a known physical or mental disability or medical condition.

(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 and corresponding regulation. 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 (Gov. Code § 12940).

NONDISCRIMINATION IN EMPLOYMENT (continued)

Reporting Conduct

All District employees, job applicants, unpaid interns, volunteers, persons providing services pursuant to a contract, students, parents, and other community members are encouraged to report incidents of harassment, discrimination, or related retaliation to the Superintendent, the Title IX Coordinator identified below, or their respective designees.

Title IX Coordinator

The District designates the position/individual identified below as responsible for coordinating its efforts to comply with state and federal nondiscrimination laws, as well as to oversee, investigate, and/or resolve complaints alleging harassment, discrimination and/or retaliation in accordance with the District's Administrative Regulation 4030 – Nondiscrimination in Employment.

Kanitra Lopez Legal Compliance Specialist/Title IX Coordinator Human Resources Department 9510 Elk Grove-Florin Road Elk Grove, CA 95624 T: (916) 686-7795 ext. 67159 E: legalcompliance@egusd.net

Complaint Procedures

All complaints containing an allegation that a District employee, or when applicable a job applicant, unpaid intern, volunteer, or person providing services to the District pursuant to a contract, was subject to unlawful discrimination, harassment, or related retaliation, as defined above, shall be addressed in accordance with the procedures set forth in Administrative Regulation 4030 – Nondiscrimination in Employment, unless the alleged conduct meets the definition of sexual harassment set forth in the Title IX of the Education Amendments of 1972 (34 C.F.R. § 106.30), as defined in Board Policy 4119.11 – Sexual Harassment.

If the alleged conduct meets the definition of sexual harassment set forth in the Title IX of the Education Amendments of 1972 (34 C.F.R. § 106.30), as defined in Board Policy 4119.11 – Sexual Harassment, then the complaint shall be addressed in accordance with Administrative Regulation 4119.12 – Title IX Sexual Harassment Complaint Procedures. The alleged conduct must meet the definition of sexual harassment under Title IX, as defined in Board Policy 4119.11 – Sexual Harassment, in order to be addressed in accordance with Administrative Regulation 4119.12 – Title IX Sexual Harassment Complaint Procedures.

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

- (cf. 1240 - Volunteer Assistance)
- (cf. 3312 - Contracts)
- (cf. 3600 - Consultants)
- (cf. 4032 - Reasonable Accommodation)
- (cf. 4119.11 - Sexual Harassment)
- (cf. 4119.12 - Title IX Sexual Harassment Complaints)

Disciplinary Action

The District shall not impose any disciplinary sanction or other actions against an individual, other than supportive measures, until the appropriate complaint procedure has been completed and a determination of responsibility has been made.

- (cf. 1312.3 - Uniform Complaint Procedures)
- (cf. 4030 - Nondiscrimination in Employment)
- (cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)
- (cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Where an employee is found to have engaged in harassment or discrimination, or related retaliation, in violation of this policy, the District shall take appropriate disciplinary actions, up to and including dismissal, in accordance with applicable law and the applicable collective bargaining agreement.

- (cf. 4117.7 - Employment Status Report)
- (cf. 4118/4218 - Dismissal/Suspension/Disciplinary Action)
- (cf. 4119.11 - Sexual Harassment)

Where a student is found to have engaged in harassment or discrimination, or related retaliation, in violation of this policy, the District shall take appropriate disciplinary actions and/or other appropriate corrective measures or interventions. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

- (cf. 5144 - Discipline)
- (cf. 5144.1 - Suspension and Expulsion/Due Process)
- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Preventative Measures

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

NONDISCRIMINATION IN EMPLOYMENT (continued)

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 Department of Fair Employment and Housing (DFEH) 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 (Gov. Code § 12950; 2 C.C.R. §§ 11013, 11023, 11049).

(cf. 4119.11- Sexual Harassment)

(cf. 4161.8/4261.8/4361.8 - Family Care Leave)

2. Publicize the District's nondiscrimination policy and regulation, including the complaint procedures and the Title IX Coordinator's contact information, by (5 C.C.R. § 4960; 34 C.F.R. §§ 100.6, 106.9):
 - 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; and
 - c. Posting them on the District's web site and providing easy access to them through District-supported social media, when available.

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

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

3. Disseminate the District's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods (2 C.C.R. § 11023):
 - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return;
 - b. Sending the policy via email with an acknowledgment return form;
 - c. Posting the policy on the District intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policy;
 - d. Discussing the policy with employees upon hire and/or during a new hire orientation session; and
 - e. Any other way that ensures employees receive and understand the policy.

NONDISCRIMINATION IN EMPLOYMENT (continued)

(cf. 4112.9/4212.9/4312.9 - Signed Statements)

4. Provide to employees a handbook that contains information that clearly describes the District's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who feel that they have been the victim of any discriminatory or harassing behavior.
5. Provide training regarding the District's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation, how a report should be made and to whom.

The District's training may also include 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 (Gov. Code § 12950.2).

(cf. 4131/4231/4331 - Staff Development)

6. Periodically review the District's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure District's compliance with law.
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 (2 C.C.R. § 11023).

Record-Keeping

In accordance with law, the Superintendent or designee shall maintain a record of all written complaints of harassment or discrimination, and related retaliation, to enable the District to monitor, address, and prevent repetitive behavior, in accordance with the District's applicable complaint procedure(s).

(cf. 3580 - District Records)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4119.12 - Title IX Sexual Harassment Complaint Procedures)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

NONDISCRIMINATION IN EMPLOYMENT (continued)

Additional Information

Additional information about this policy, your rights and responsibilities, or about how to file a complaint can be obtained by contacting the Legal Compliance Specialist, legalcompliance@egusd.net, 916-686-7795, Elk Grove Unified School District, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624, or one of the District's Title IX Coordinators.

Legal References:

EDUCATION CODE

200-262.4 Prohibition of discrimination
44000-44114 Employees
44420-44440 Certificated Employees
44800-45061.5 Employment – Certificated Employees
45100-45500 Classified Employees

CIVIL CODE

51 *et seq.* Unruh Civil Rights Act
51.7 Ralph Civil Rights Act
54 *et seq.* Disabled Persons Act

GOVERNMENT CODE

11135 Unlawful discrimination
12900-12996 Fair Employment and Housing Act

PENAL CODE

422.55-422.57 Hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11098 Discrimination in employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary educational programs receiving State or federal financial assistance

NONDISCRIMINATION IN EMPLOYMENT (continued)

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
701 *et seq.*, 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
12101-12217 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

100.1-100.13 Nondiscrimination under Programs Receiving Federal Assistance through the Department of Education Effectuation of Title VI of the Civil Rights Act of 1964 Compliance information
104.1-104.61 Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance
106.1-106.82 Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance
110.1-110.39 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

COURT DECISIONS

Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863
Shepard v. Loyola Marymount, (2002) 102 CalApp.4th 837

Management Resources:

NONDISCRIMINATION IN EMPLOYMENT (continued)

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

California Law Prohibits Workplace Discrimination and Harassment, December 2014

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, August 2010

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008

New Compliance Manual Section 15: Race and Color Discrimination, April 2006

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>

Policy

adopted: May 16, 1994

revised: April 6, 1998

revised: July 1, 2002

revised: October 16, 2012

revised: March 17, 2015

revised: November 15, 2016

revised: September 3, 2019

revised: December __, 2020

ELK GROVE UNIFIED SCHOOL DISTRICT

Elk Grove, California