

PIEDMONT UNIFIED SCHOOL DISTRICT
Board Policy

Personnel

BP 4030

Board Policy

Nondiscrimination In Employment

BP 4030

Personnel

The Governing Board is determined to provide district employees, interns, volunteers, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all district employees and, to the extent required by law, to interns, volunteers, and job applicants.

(cf. 1240 - Volunteer Assistance)

(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, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation or his/her association with a person or group with one or more of these actual or perceived characteristics.

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

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

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

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

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 his/her 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.

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

(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 he/she 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. 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)

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 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. He/she shall provide 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.

In addition, the Superintendent or designee shall post, in a conspicuous place on district premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

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

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11086 Discrimination in employment

11013 Recordkeeping

11019 Terms, conditions and privileges of employment

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

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, 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>

~~DISCRIMINATION / HATE-MOTIVATED INCIDENTS AND HATE CRIMES /~~ **~~HAZING / HARASSMENT (Including Sexual Harassment),~~** **~~Intimidation, Bullying and Cyberbullying~~** *(Employee Version)*

~~District Statement Prohibiting Discrimination, Hate-Motivated Incidents and Hate Crimes, Hazing, Harassment, (including Sexual Harassment), Intimidation, Bullying and Cyberbullying~~

~~The Board of Education believes that teachers, administrators, and all other staff members have the right to perform their duties in a safe and civil environment. The Board prohibits discrimination, hate motivated incidents and hate crimes, hazing, harassment (including sexual harassment), intimidation, bullying or cyberbullying against any teacher, administrator or staff member by a student, another employee, or any other person in the District authorized to transact business or perform services on behalf of the District.~~

~~Discrimination, hate motivated incidents and hate crimes, hazing, harassment, and harassment (including sexual harassment), intimidation, bullying, or cyberbullying, like other disruptive or violent behaviors, disrupt the ability to teach and learn, and a school's ability to educate its students in a safe environment.~~

~~In addition, the District shall not tolerate the unlawful discrimination against or tolerate any hate crime, hazing, harassment (including sexual harassment), intimidation bullying, or cyberbullying against students, employees or job applicants on the basis of ethnic group, religion, gender, gender identity or expression, sexual orientation, ancestry, national origin, color, race, or mental, physical or sensory handicap, age, marital status, pregnancy, medical condition, veteran status, or by any other distinguishing characteristic. This prohibition also includes such misconduct against anyone on the basis of their association or affinity with anyone who is directly protected, or against anyone in retaliation for reporting or attempting to stop such misconduct.~~

~~Equal employment opportunity shall be provided to all employees and applicants. Physically or mentally disabled employees or applicants may request reasonable accommodation.~~

~~The Board of Education designates the following employee to receive and investigate complaints of discrimination, hate motivated incidents and hate crimes, hazing, harassment (including sexual harassment), intimidation, bullying, or cyberbullying, and to ensure District compliance with law:~~

Superintendent
760 Magnolia Ave., Piedmont, CA 94614
(510) 594-2614

Annual Notification

The Superintendent or designee shall annually publicize this policy and the availability of complaint procedures throughout the District and the community.

~~(see also BP/AR 5145.3, "Discrimination / Hate-Motivated Incidents and Hate Crimes / Hazing/ Harassment (Including Sexual Harassment), Intimidation, Bullying and Cyberbullying) —Student Version", and BP/AR 6163.4, "Acceptable Use of Technology —Students & Employees"~~

Adopted: February 9, 2000
Revised: December 10, 2003
Revised: June 23, 2004
Revised: September 26, 2007
Revised: September 24, 2008
Revised: January 26, 2010

Administrative Regulation

Nondiscrimination In Employment

AR 4030

Personnel

All allegations of discrimination in employment, including those involving an intern, volunteer, or job applicant, shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to coordinate 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:

Superintendent

760 Magnolia Avenue, Piedmont, CA 94611

(510) 594-2614

rbooker@piedmont.k12.ca.us

Measures to Prevent Discrimination

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

1. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 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

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)

2. Disseminate the district's nondiscrimination policy to all employees by one or more of the following methods: (2 CCR 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 policies

d. Discussing the policy with employees upon hire and/or during a new hire orientation session

e. Any other way that ensures employees receive and understand the policy

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. 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 anyone who feels that he/she has been the victim of any discriminatory or harassing behavior

4. Provide training to employees, volunteers, and interns 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

Training for supervisors shall include the requirement to report any complaint of misconduct to a designated representative, such as the coordinator, human resources manager, or Superintendent or designee as a topic in the sexual harassment prevention training required pursuant to 2 CCR 11024 (2 CCR 11023)

(cf. 1240 - Volunteer Assistance)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

5. 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

6. 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 his/her direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

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, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

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

(cf. 4032 - Reasonable Accommodation)

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. He/she shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

(cf. 3580 - District Records)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

If the coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation 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 his/her 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 also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents are prevented. 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 his/her 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 also shall 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 complainant, the person accused, and the Superintendent or designee.

4. Appeal to the Governing Board: 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.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session Purposes and Agendas)

Other Remedies

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

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)

3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

PIEDMONT UNIFIED SCHOOL DISTRICT
Administrative Regulation

Personnel

AR 4030

~~DISCRIMINATION / HATE-MOTIVATED INCIDENTS AND HATE~~
~~CRIMES / HAZING / HARASSMENT (Including Sexual~~
~~Harassment), Intimidation, Bullying and Cyberbullying~~
(Employee Version)

~~Definition of Discrimination, Hazing, Harassment, Intimidation, or Bullying~~
~~(see following separate definitions of Hate-Motivated Incidents and Hate~~
~~Crimes, Hazing, Sexual Harassment, Cyberbullying, and Misconduct)~~

~~Discrimination, harassment, intimidation, or bullying means any gesture or written, verbal or physical act that causes or threatens to cause bodily harm or emotional suffering that takes place on school property, at any school-sponsored function or on a school bus, that is one or more of the following:~~

- ~~a. Acts motivated by any actual or perceived characteristic, such as ethnic group, religion, gender, gender identity and expression, sexual orientation, ancestry, national origin, color, race, or mental, physical or sensory handicap, or by any other distinguishing characteristic;~~
- ~~b. Acts that a reasonable person should know, under the circumstances, will have the effect of harming a person or damaging the person's property, or placing a person in reasonable fear of harm to his /her person or damage to his/her property, to include extortion, and/or~~
- ~~c. Acts that have the effect of insulting, demeaning, or ridiculing any person(s) or group of persons in such a way as to cause substantial disruption in, or substantial interference with the orderly operation of the school.~~
- ~~d. Acts that have the effect of insulting, demeaning, or ridiculing any teacher, administrator, staff member, or any other person in the District authorized to transact business or perform services on behalf of the District or group thereof in such a way as to cause substantial disruption in, or substantial interference with the orderly operation of the school.~~
- ~~e. Acts include those directed against someone because of their association or affinity with anyone who exhibits or is believed by the offender to exhibit any distinguishing characteristic protected by this policy, or in retaliation for their objection to or reporting of such misconduct.~~

~~Definition of Hate-Motivated Incidents and Hate Crimes~~

~~A "hate-motivated incident" means an act or attempted act which constitutes an expression of hostility against a person, property, or institution because of the target's real or perceived race, color, national origin, religion, disability, sex, sexual orientation, or gender identity. This may include using bigoted insults, taunts, or slurs in words or writing, distributing or posting hate-group literature or posters, defacing, removing, or destroying posted materials or~~

~~announcements, posting or circulating demeaning jokes or leaflets, or sending insulting or threatening messages by phone, e-mail, web sites, or any other electronic or written communication.~~

~~Some hate-motivated behavior may also be a crime as defined in State or Federal law. These crimes include, but are not limited to: bomb threats, cross burnings, destruction or defacement of property, and certain types of vandalism and assaults. (Education Code Section 233(e); Penal Code Sections 422.6, 422.7, 422.75). They may also include an act that willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person. (18 USC Section 249)~~

Definition of Hazing

~~Hazing includes any method of initiation or preinitiation into a student organization or student body or any pastime or amusement engaged in with respect to these organizations which causes, or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm, to any pupil or other person attending any school in this state. The term "hazing" does not include customary athletic events or other similar contests or competitions. (Ed Code Section 32050)~~

Definition of Sexual Harassment

~~Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, physical conduct of a sexual nature, or sexual violence made by someone in the educational setting, under any of the following conditions:~~

- ~~a. Submission to or rejection of the conduct is explicitly or implicitly used as the basis or condition of employment or continued employment;~~
- ~~b. The conduct has the purpose or effect of having a negative impact upon the employee's performance, or of creating an intimidating, hostile, or offensive work environment;~~
- ~~c. Submission to, or rejection of the conduct by the individual is used as the basis for any decision affecting the person regarding employment, services, honors, programs, or activities available at or through the work setting.~~

~~Other types of conduct which are prohibited in the District and which may constitute sexual harassment include:~~

~~**Verbal or written conduct:** making derogatory comments, including epithets, slurs, jokes, etc.; sexual propositions or flirtations, graphic commentary about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, notes or invitations; spreading sexual rumors.~~

~~**Visual conduct:** leering; making sexual gestures; displaying sexually suggestive objects, pictures, books, magazines, etc.~~

Physical conduct: inappropriate touching or impeding one's movement.

Definition of Sexual Violence

Sexual violence is defined as a sexual act committed against someone without that person's freely given consent. Sexual violence is divided into the following types:

- a. Completed or attempted forced penetration of a victim
- b. Completed or attempted alcohol/drug facilitated penetration of a victim
- c. Completed or attempted forced acts in which a victim is made to penetrate a perpetrator or someone else
- d. Completed or attempted alcohol/drug-facilitated acts in which a victim is made to penetrate a perpetrator or someone else
- e. Non-physically forced penetration which occurs after a person is pressured verbally or through intimidation or misuse of authority to consent or acquiesce
- f. Unwanted sexual contact
- g. Non-contact unwanted sexual experiences

Definition of Cyberbullying

Cyberbullying includes the posting of harassing messages, direct threats, social cruelty, or other harmful text or images on the internet, social networking sites, or other digital technologies, as well as breaking into another person's account and assuming that person's identity in order to damage that person's reputation or friendships.

Districts have the ability to monitor use of the District's internet system and to conduct a search of person or possessions such as, but not limited to, computer, locker, backpacks, if there is reasonable suspicion that a user has violated District policy or the law (see also BP/AR 6163.4, "Acceptable Use of Technology"). Cyberbullying conducted using District-owned equipment or on school premises, as well as off-campus cyberbullying that impacts school activity or school attendance may be subject to discipline in accordance with District policies and regulations.

Definition of Misconduct

For economy of writing and ease of reading, the term "misconduct" is introduced below. For purposes of this policy, "misconduct" means Discrimination, Hate-Motivated Incidents and Hate Crimes, Hazing, Harassment (including Sexual Harassment), Intimidation, Bullying, or Cyberbullying.

Type of Behavior Expected from Each Employee

All employees are expected to carry out their responsibilities in a manner that is free from discriminatory statements or conduct. Employees who permit or engage in discrimination, hazing, harassment, sexual harassment, intimidation or bullying may be subject to disciplinary action up to and including dismissal.

~~The District prohibits active or passive support for the misconduct prohibited by this policy, and requires all such acts to be reported to the designated authority immediately by an employee who witnesses an incident. Failure of an employee to report an act shall be subject to disciplinary action, up to and including dismissal. In addition, criminal or civil charges may be brought against the alleged perpetrator of the misconduct; sexual harassment also may be considered a violation of laws relating to child abuse.~~

Procedures for Reporting Misconduct

~~All school employees are required to report incidents that they experience or observe that they believe violate this policy as soon as is reasonably possible (within 24 hours) to the principal or the principal's designee, even if the victim has not complained. All other members of the school community, including students, parents, volunteers and visitors, are encouraged to report any act that may be a violation of this policy. Any employee or applicant for employment who feels that he/she has been the victim of misconduct prohibited by this policy should immediately contact his/her supervisor or the Superintendent or designee. An employee may bypass his/her supervisor when the supervisor is the alleged offender.~~

~~At each school, the principal or designee is responsible for receiving complaints alleging violations of this policy. The reporting party is encouraged to use the District's Uniform & General Complaint Form, which is available from the principal of each site or at the school district office, or on the District's Internet site at www.piedmont.k12.ca.us. However, oral reports will also be considered official reports. Reports may be made anonymously, but formal disciplinary action may not be based solely on an anonymous report. Information related to a complaint shall be confidential to the extent possible, and individuals involved in the investigation of such a complaint shall not discuss related information outside the investigation process.~~

~~The principal and/or designee is responsible for determining whether an alleged act constitutes a violation of this policy. In so doing, the principal and/or designee shall conduct a prompt, thorough and complete investigation of the alleged incident.~~

~~Complaints against a student can be directed to the site administrator who will follow the same process.~~

~~Complaints against administrators can be directed to the Superintendent or designee who will follow the same process.~~

~~Complaints against the Superintendent can be directed to the Board of Education, who will follow the same process.~~

Staff Training

~~Principals or their designee will be responsible for training and preparing staff members in the prevention of these types of incidents toward students, and when necessary, providing positive behavioral intervention. Staff shall be alert and immediately responsive to any student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.~~

~~Staff shall also be alert and immediately responsive to any teacher/staff conduct toward a student, another staff member, or other person in the District authorized to transact business or perform services on behalf of the District, which may interfere with their safety~~

and/or well being.

Information related to a complaint shall be confidential to the extent possible, and individuals involved in the investigation of such a complaint shall not discuss related information outside the investigation process.

Retaliation for Reporting Acts of Misconduct

The District prohibits reprisal or retaliation against any employee or any participant in the complaint process who reports an act of misconduct

False Accusation of Misconduct

Consequences and appropriate remedial action for a school employee found to have falsely accused another staff member or student of misconduct, as a means of misconduct shall be disciplined in accordance with District policies, procedures and/or collective bargaining agreements.

Remedial Action

The District will consider the following factors in determining the appropriate response to employees who commit or participate in one or more acts of misconduct:

1. levels of harm
2. surrounding circumstances
3. nature of the behaviors
4. past incidences or past or continuing patterns of behavior
5. relationships between the parties involved
6. context in which the alleged incidents occurred

Consequences and appropriate remedial action for employees who commit misconduct may range from positive behavioral interventions and/or disciplinary action up to and including suspension or termination.

Investigation of Complaints at School (Site-Level Grievance Procedure)

1. Procedures for investigation of complaints shall be consistent with all provisions covered under the respective collective bargaining agreement or memorandum of understanding.
2. The principal or designee shall promptly investigate all complaints of misconduct. In so doing, he/she shall talk individually with:
 - a. The employee who has filed a complaint
 - b. The target of the misconduct, if different from the employee who filed the complaint
 - c. The person accused of misconduct
 - d. Anyone who witnessed the alleged misconduct
 - e. Anyone mentioned as having related information

~~f. All misconduct involving damage to property, i.e., graffiti, shall be photographed immediately and archived. The Superintendent or designee may report the activity to the appropriate legal authorities~~

~~3. The principal or designee shall tell the employee who complained that he/she has the right to file a formal complaint at any time in accordance with the District's uniform complaint procedures.~~

~~4. The employee who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of misconduct, and put his/her complaint in writing.~~

~~5. The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:~~

~~a. The Superintendent or designee~~

~~b. A teacher or staff member whose knowledge of the people involved may help in determining who is telling the truth~~

~~c. Child protective agencies responsible for investigating child abuse reports (if applicable)~~

~~d. Legal counsel for the District~~

~~e. Law enforcement agency responsible for investigating criminal activity, if necessary~~

~~6. When the employee who complained and the person accused of misconduct so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of an administrator or trained mediator.~~

~~7. In reaching a decision about the complaint, the principal or designee may take into account:~~

~~a. Statements made by the persons identified above~~

~~b. The details and consistency of each person's account~~

~~c. Evidence of how the complaining employee reacted to the incident~~

~~d. Evidence of past instances of misconduct by the accused person~~

~~e. Adversely affected complainant's employment opportunities~~

~~f. Evidence of past complaints of misconduct that were found to have been unfounded~~

8. ~~To judge the severity of the misconduct, the principal or designee may take into consideration:~~
- a. ~~How the misconduct affected the safety, well-being or work performance of the victim or complainant, or created an intimidating, hostile or offensive work environment~~
 - b. ~~The type, frequency, pattern, violence and duration of the misconduct~~
 - c. ~~The number of persons involved~~
 - d. ~~The age and sex of the person accused of misconduct~~
 - e. ~~The subject(s) of misconduct~~
 - f. ~~The place and situation where the incident occurred~~
 - g. ~~Other incidents at the school, including incidents of misconduct that were not related to sexual harassment~~
 - h. ~~According to the misconduct, a report may be obtained from the appropriate law enforcement agency.~~
 - i. ~~The principal or designee shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the employee who complained and the person accused.~~
9. ~~The principal or designee shall give the Superintendent or designee a written report of the complaint and investigation. If he/she verifies that misconduct occurred, this report shall describe the actions he/she took to end the misconduct, address the effects of the misconduct on the victim, and prevent retaliation or further misconduct~~
10. ~~Within two weeks after receiving the complaint, the principal or designee shall determine whether or not the employee who complained has been further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up at his/her discretion.~~

Enforcement

~~The Superintendent or designee shall take appropriate actions to reinforce the District's policy against misconduct. As needed, these actions may include any of the following:~~

- 1. ~~Warning~~
- 2. ~~Counseling~~
- 3. ~~Reassignment~~
- 4. ~~Transfer~~
- 5. ~~Disciplinary action up to and including suspension or termination~~
- 6. ~~In addition, the principal or designee may take disciplinary measures against any employee who is found to have made a complaint which he/she knew was unfounded.~~

Civil Law Remedies

~~A victim (and in some circumstances a complainant) may pursue available civil law remedies outside of the District's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the District has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR Section 4622.~~

Annual Notification

~~The Superintendent or appropriate designee shall provide to staff, annually, at the beginning of the school year, the rules of the District regarding staff conduct. The rules shall be posted in a prominent location near each school principal's office.~~

~~See also BP/AR 5145.3, "Discrimination / Hate Crimes / Harassment, Including Sexual Harassment, Intimidation, Bullying and Cyberbullying—Student Version", and BP/AR 6163.4, "Acceptable Use of Technology—Students and Employees"~~

~~Legal References:~~

~~EDUCATION CODE~~

~~200-262.4 Prohibition of discrimination on the basis of sex, especially: 212.5~~

~~Sexual harassment, defined~~

~~230 Particular practices prohibited~~

~~231.5 Sexual harassment policy 233(e)~~

~~Defines "hate violence"~~

~~32261 Right to attend safe schools, free from the misconduct addressed in this policy~~

~~44100 Legislative intent, affirmative action employment~~

~~GOVERNMENT CODE~~

~~11135 Unlawful discrimination~~

~~12900-12996 Fair Employment and Housing Act~~

~~LABOR CODE~~

~~1101 Political activities of employees~~

~~1102.1 Employment discrimination: sexual orientation~~

~~UNITED STATES CODE, TITLE 18~~

~~249. Hate crime acts~~

~~UNITED STATES CODE, TITLE 20~~

~~1683 et seq. Civil Rights Restoration Act UNITED~~

~~STATES CODE, TITLE 29~~

~~621 et seq. Age Discrimination in Employment Act~~

~~791 et seq. Vocational Rehabilitation Act of 1973, Sections 503 and 504~~

~~UNITED STATES CODE, TITLE 38~~

~~2011 et seq. Vietnam Era Veterans' Act UNITED~~

~~STATES CODE, TITLE 42~~

~~2000d & 2000e et seq. Title VI & Title VII, Civil Rights Act of 1964 as amended~~

~~2000h 2 et seq. Title IX, 1972 Education Act Amendments~~

~~12101 et seq. Americans With Disabilities Act CODE~~

~~OF FEDERAL REGULATIONS, TITLE 28~~

~~35.107 Designation of responsible employee and adoption of grievance procedures CODE~~

~~OF FEDERAL REGULATIONS, TITLE 29~~

~~1630.2(r) Direct threat~~

~~CODE OF FEDERAL REGULATIONS, TITLE 34~~

~~104.7 Designation of Overall Responsible Employee for Section 504~~

~~106.8 Designation of Overall Responsible Employee for Title IX~~

Adopted: July 5, 2000

Revised: December 10, 2003

Revised: June 23, 2004

Revised: September 26, 2007

Revised: September 24, 2008

Revised: January 26, 2010

Revised: January __, 2018