

REGULATION 4030: NON-DISCRIMINATION IN EMPLOYMENT**Adoption Date:** 11/25/1996**Revised:** 12/09/2002, 5/10/2016, 11/10/2020, 5/10/2022

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district 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 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 designee 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 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
2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by:
 - 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
3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods:
 - 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
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 anyone who feels that he/she has 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 and how and to whom a report of an incident should be made

The district may also provide bystander intervention training to employees which 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.
 6. 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
 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

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, 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 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 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 the 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 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 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the 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 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 designee.

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

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.

Other Remedies

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

1. For filing a complaint with DFEH 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
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s)
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

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

State

2 CCR 11006-11086

2 CCR 11023

2 CCR 11024

2 CCR 11027-11028

5 CCR 4900-4965

Civ. Code 51.7

Ed. Code 200-262.4

Gov. Code 11135

Gov. Code 11138

Gov. Code 12900-12996

Gov. Code 12940-12952

Gov. Code 12960-12976

Pen. Code 422.56

Description

Discrimination in employment

Harassment and discrimination prevention and correction

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation

National origin and ancestry discrimination

Nondiscrimination in elementary and secondary education programs

Freedom from violence or intimidation

Educational equity; prohibition of discrimination on the basis of sex

Unlawful discrimination

Rules and regulations

Fair Employment and Housing Act

Unlawful employment practices

Unlawful employment practices; complaints

Definitions, hate crimes

Federal

20 USC 1681-1688

28 CFR 35.101-35.190

29 USC 621-634

29 USC 794

34 CFR 100.6

34 CFR 104.7

34 CFR 104.8

Description

Title IX of the Education Amendments of 1972

Americans with Disabilities Act

Age Discrimination in Employment Act

Rehabilitation Act of 1973, Section 504

Compliance information

Designation of responsible employee for Section 504

Notice

34 CFR 106.8	Designation of responsible employee and adoption of grievance procedures
34 CFR 106.9	Dissemination of policy
34 CFR 110.1-110.39	Nondiscrimination on the basis of age
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964, as amended
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age discrimination in federally assisted programs

Management Resources

	<u>Description</u>
CA Dept. of Fair Employment and Housing Publication	California Law Prohibits Workplace Discrimination and Harassment
CA Dept. of Fair Employment and Housing Publication	Transgender Rights in the Workplace
CA Dept. of Fair Employment and Housing Publication	Workplace Harassment Guide for California Employers
CA Dept. of Fair Employment and Housing Publication	Your Rights and Obligations as a Pregnant Employee
Court Decision	Thomson v. North American Stainless LP, (2011) 131 S.Ct. 863
Court Decision	Shepard v. Loyola Marymount, (2002) 102 Cal.Appl 4th 837
U.S. DOE Office for Civil Rights Publication	Notice of Non-Discrimination, August 2010
U.S. Equal Employment Opportunity Comm Publication	EEOC Compliance Manual
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
Website	California Department of Fair Employment and Housing
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

<u>Code</u>	<u>Description</u>
0410	Nondiscrimination in District Programs and Activities
0470	COVID-19 Mitigation Plan
1113	District and School Web Sites
1113	District and School Web Sites
1113-E (1)	District and School Web Sites
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-E (1)	Uniform Complaint Procedures
1312.3-E (2)	Uniform Complaint Procedures
2120	Superintendent Recruitment and Selection

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
4112.6	Personnel Files
4112.8	Employment of Relatives
4112.9	Employee Notifications
4112.9-E (1)	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
4119.22	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-E (1)	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
4219.22	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-E (1)	Employee Notifications
4313.5	Working Remotely
4319.1	Civil and Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
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
9000-B	Role of the Board
9321-B	Closed Session