

NONDISCRIMINATION IN EMPLOYMENT

The Board of Trustees 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, pregnancy, child birth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status, pregnancy; physical or mental disability; medical conditions; genetic information; veteran or military status; sex; sex stereotypes; sex characteristics; 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)~~

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decision-making, defined as a person's decision to use or access a particular drug, device, product, or medical service for reproductive health. (Government Code 12926, 12940)

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 the District such inquiry is ~~required to do so in order~~ necessary to comply with federal immigration law. (2 CCR 11028)

Unless otherwise provided for in law, the District may not discriminate against an employee, including an applicant for employment, in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. However, the District retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

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. Hiring, compensation, terms, conditions, and other privileges of employment

NONDISCRIMINATION IN EMPLOYMENT (continued)

2. Taking of adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is offensive and 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 employee'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~~ Sex discrimination as specified in Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment

(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. Requiring medical or psychological examination of a job applicant, or making 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 effective reasonable accommodations, if any, to be provided to the employee

(cf. 4032 – Reasonable Accommodation)
 - e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision-making

NONDISCRIMINATION IN EMPLOYMENT (continued)

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, reports an incident, 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 release of the employee's claim or right to file a claim against the District or a nondisparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (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. However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment 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.~~ within one workday. All other employees ~~are encouraged to~~ shall report such incidents to their supervisor ~~immediately.~~ or designated District coordinator within one workday.

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 prohibited 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)~~

NONDISCRIMINATION IN EMPLOYMENT (continued)

The District shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the District is notified that a complaint has been filed with the California Department of Fair Employment and Housing, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

~~Legal Reference: (see next page)~~

NONDISCRIMINATION IN EMPLOYMENT (continued)*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: (see next page)*

NONDISCRIMINATION IN EMPLOYMENT (continued)*Management Resources:*CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONSCalifornia Law Prohibits Workplace Discrimination and HarassmentTransgender Rights in the WorkplaceWorkplace Harassment Guide for California EmployersYour Rights and Obligations as a Pregnant EmployeeU.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONSNotice of Non-Discrimination, August 2010U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONSEEOC Compliance ManualEnforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999WEB SITESCalifornia 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 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.

State2 CCR 11006-110862 CCR 110232 CCR 110242 CCR 11027-110285 CCR 4900-4965CA Constitution Article 1, Section 1Civ. Code 51.7Ed. Code 200-262.4Gov. Code 11135Gov. Code 12900-12996Gov. Code 12940-12954Gov. Code 12960-12976Labor Code 79-107Labor Code 1030-1034Labor Code 1197.5Pen. Code 422.56**Federal**20 USC 1681-1688**Description**Discrimination in employmentHarassment and discrimination prevention and correctionRequired training and education on harassment based on sex, gender identity and expression, and sexual orientationNational origin and ancestry discriminationNondiscrimination in elementary and secondary educational programs receiving state or federal financial assistanceInalienable rightsFreedom from violence or intimidationProhibition of discriminationProhibition of discriminationFair Employment and Housing ActUnlawful employment practicesUnlawful employment practices; complaintsDivision of Labor Standards EnforcementLactation accommodationWages, hours and working conditionsDefinitions; hate crimes**Description**Title IX of the Education Amendments of 1972; discrimination based on sex

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Federal (continued)

28 CFR 35.101-35.190

29 USC 218d

29 USC 621-634

29 USC 794

42 USC 2000gg-2000gg-6

29 CFR 1636

34 CFR 100.6

34 CFR 104.7

34 CFR 104.8

34 CFR 106.1-106.82

34 CFR 110.1-110.39

42 USC 12101-12213

42 USC 2000d-2000d-7

42 USC 2000e-2000e-17

42 USC 2000ff-2000ff-11

42 USC 2000h-2-2000h-6

42 USC 6101-6107

Executive Order 11246

U.S. Constitution, First Amendment

Management Resources

CA Civil Rights Department Publication

CA Civil Rights Department Publication

Description

Americans with Disabilities Act

Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act

Age Discrimination in Employment Act

Rehabilitation Act of 1973; Section 504

Pregnant Workers Fairness Act

Implementation of the Pregnant Workers Fairness Act

Title VI; Compliance information

Section 504; Designation of responsible employee and adoption of grievances procedures

Notice of Nondiscrimination on the Basis of Handicap

Discrimination on the basis of sex; effectuating Title IX

Nondiscrimination on the basis of age

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended
Genetic Information Nondiscrimination Act of 2008

Title IX of the Civil Rights Act of 1964

Age discrimination in federally assisted programs

Equal Employment Opportunity

(<https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>)

Free exercise, free speech, and establishment clauses

Description

Family Care and Medical Leave and Pregnancy Disability Leave, January 2023

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/CFRA-and-Pregnancy-Leave_ENG.pdf)

California Law Prohibits Workplace

Discrimination and Harassment, January 2024

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Federal (continued)

CA Civil Rights Department Publication

Description

The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/11/The-Rights-of-Employees-who-are-Transgender-or-Gender-Nonconforming-Fact-Sheet_ENG.pdf)

CA Civil Rights Department Publication

Harassment Prevention Guide for California Employers, 2017

(<https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide-1.pdf>)

CA Civil Rights Department Publication

Your Rights and Obligations as a Pregnant Employee, January 2023

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/Your-Rights-and-Obligations-as-a-Pregnant-Employee_ENG.pdf)

CA Civil Rights Department Publication

Sexual Harassment, January 2023

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Sexual-Harassment-Poster_ENG.pdf)

Court Decision

Groff v. DeJoy (2023) 600 U.S. 447

Court Decision

Kennedy v. Bremerton (2022) 142 S.Ct. 2407

Court Decision

Shepard v. Loyola Marymount (2002) 102

Cal.App. 4th 837

Court Decision

Thomson v. North American Stainless LP (2011)

62 U.S. 170

Court Decision

Faragher-Ellerth v. City of Boca Raton (1998)

524 U.S. 775

Court Decision

Burlington Industries, Inc v. Ellerth (1998) 524

U.S. 742

U.S. DOE Publication

Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023

(https://www2.ed.gov/policy/gen/guid/religiousanddschools/prayer_guidance.html)

NONDISCRIMINATION IN EMPLOYMENT (continued)**Federal (continued)**Federal Register**Description**Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)U.S. Equal Employment Opportunity Comm PublicationKnow Your Rights: Workplace Discrimination is Illegal, June 2023 (https://www.eeoc.gov/poster)U.S. Equal Employment Opportunity Comm PublicationEnforcement Guidance on Harassment in the Workplace, April 2024 (https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace)U.S. Equal Employment Opportunity Comm PublicationEEOC Compliance Manual (https://www.eeoc.gov/guidance-subject-area) Equal Employment Opportunity Commission (https://www.eeoc.gov/)WebsiteWebsiteU.S. Department of Labor, Office of Federal Contract Compliance ProgramWebsiteCSBA District and County Office of Education Legal ServicesWebsiteCalifornia Civil Rights DepartmentWebsiteCalifornia Department of Industrial Relations (https://www.dir.ca.gov/)WebsiteU.S. Department of Education, Office for Civil RightsWebsiteU.S. Equal Employment Opportunity Commission**Cross References****Code**403341114111.24112.44112.414112.54112.64112.84112.94112.9-E(1)4113.5**Description**Lactation AccommodationRecruitment And SelectionLegal Status RequirementHealth ExaminationsEmployee Drug TestingCriminal Record CheckPersonnel FilesEmployment Of RelativesEmployee NotificationsEmployee NotificationsWorking Remotely

NONDISCRIMINATION IN EMPLOYMENT (continued)**Cross References (continued)**

<u>Code</u>	<u>Description</u>
<u>4114</u>	<u>Transfers</u>
<u>4118</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4119.1</u>	<u>Civil And Legal Rights</u>
<u>4119.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4119.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.22</u>	<u>Dress And Grooming</u>
<u>4119.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4119.41</u>	<u>Employees With Infectious Disease</u>
<u>4131</u>	<u>Staff Development</u>
<u>4144</u>	<u>Complaints</u>
<u>4151</u>	<u>Employee Compensation</u>
<u>4154</u>	<u>Health And Welfare Benefits</u>
<u>4161.5</u>	<u>Military Leave</u>
<u>4161.8</u>	<u>Family Care And Medical Leave</u>
<u>4211</u>	<u>Recruitment And Selection</u>
<u>4211.2</u>	<u>Legal Status Requirement</u>
<u>4212.4</u>	<u>Health Examinations</u>
<u>4212.41</u>	<u>Employee Drug Testing</u>
<u>4212.6</u>	<u>Personnel Files</u>
<u>4212.8</u>	<u>Employment Of Relatives</u>
<u>4212.9</u>	<u>Employee Notifications</u>
<u>4212.9-E(1)</u>	<u>Employee Notifications</u>
<u>4213.5</u>	<u>Working Remotely</u>
<u>4218</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4218.1</u>	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
<u>4219.1</u>	<u>Civil And Legal Rights</u>
<u>4219.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4219.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.22</u>	<u>Dress And Grooming</u>
<u>4219.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4219.41</u>	<u>Employees With Infectious Disease</u>
<u>4231</u>	<u>Staff Development</u>
<u>4244</u>	<u>Complaints</u>

NONDISCRIMINATION IN EMPLOYMENT (continued)**Cross References (continued)**

<u>Code</u>	<u>Description</u>
<u>4251</u>	<u>Employee Compensation</u>
<u>4254</u>	<u>Health And Welfare Benefits</u>
<u>4261.5</u>	<u>Military Leave</u>
<u>4261.8</u>	<u>Family Care And Medical Leave</u>
<u>4311</u>	<u>Recruitment And Selection</u>
<u>4311.2</u>	<u>Legal Status Requirement</u>
<u>4312.4</u>	<u>Health Examinations</u>
<u>4312.41</u>	<u>Employee Drug Testing</u>
<u>4312.6</u>	<u>Personnel Files</u>
<u>4312.8</u>	<u>Employment Of Relatives</u>
<u>4312.9</u>	<u>Employee Notifications</u>
<u>4312.9-E(1)</u>	<u>Employee Notifications</u>
<u>4313.5</u>	<u>Working Remotely</u>
<u>4319.1</u>	<u>Civil And Legal Rights</u>
<u>4319.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4319.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.22</u>	<u>Dress And Grooming</u>
<u>4319.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4319.41</u>	<u>Employees With Infectious Disease</u>
<u>4331</u>	<u>Staff Development</u>
<u>4344</u>	<u>Complaints</u>
<u>4351</u>	<u>Employee Compensation</u>
<u>4354</u>	<u>Health And Welfare Benefits</u>
<u>4361.5</u>	<u>Military Leave</u>
<u>4361.8</u>	<u>Family Care And Medical Leave</u>
<u>9000</u>	<u>Role Of The Board</u>
<u>9321</u>	<u>Closed Session</u>
<u>9321-E(1)</u>	<u>Closed Session</u>
<u>9321-E(2)</u>	<u>Closed Session</u>

NONDISCRIMINATION IN EMPLOYMENT

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. However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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

(cf. 1240 – Volunteer Assistance)

(cf. 3312 – Contracts)

(cf. 3600 – Consultants)

(cf. 4032 – Reasonable Accommodation)

The District designates the position identified below as its coordinator for nondiscrimination in employment 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:

Assistant Superintendent of Human Resources
350 W. Brookside Ave.
Beaumont, CA 92223
(951) 845-1631

If the allegations of discrimination are against the District Superintendent, the report may be submitted directly to the President of the Board of Trustees.

Measures to Prevent Discrimination

To prevent unlawful discrimination, harassment, and retaliation ~~against District employees, volunteers, interns, and job applicants~~ 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 Civil Rights Department (CRD) ~~of Fair Employment and Housing (DFEH)~~ posters on the prohibition of workplace discrimination and harassment, including sex-based harassment, the rights of transgender employees, and the rights and obligation of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)

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

(cf. 4161.8/4261.8/4361.8 – Family Care and Medical Leave)

NONDISCRIMINATION IN EMPLOYMENT (continued)

2. 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~~website 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 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 a copy of the policy via email with an acknowledgment return form
 - c. Posting a copy of the policy on the District website 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

(cf. ~~4112.9/4212.9/4312.9—Employee Notifications~~)

4. Post in a prominent location on the District's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians, or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following: (34 CFR 106.8)
 - a. The District does not discriminate on the basis of sex in any education program or activity that it operates

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- b. Inquiries about the application of the Title IX may be referred to the District's Title IX Coordinator and/or the U.S Department of Education Office for Civil Rights
- c. The name or title, office, and email address, and telephone number of the District's Title IX Coordinator
- d. How to locate the District's nondiscrimination policy and the District's grievance procedures for Title IX complaints
- e. How to report conduct that may constitute sex discrimination under Title IX
- f. How to make a complaint of Title IX sex discrimination

If necessary due to the format or size of any publication specified above, the District may include only the statement that the District prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location of the complete notice on the District's website.

The District shall not distribute a publication stating that the District treats students, employees, or applicants differently on the basis of sex, unless such treatment is permitted by Title IX.

- 4.5. 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 they have been the victim of any discriminatory or harassing behavior
- 5.6. 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, as well as any additional training as specified in 34 CFR 106.8 related to the prohibition of Title IX sex discrimination

The District may also provide bystander intervention training to employees, ~~which~~ that includes information and practical guidance on how to recognize potentially problematic behaviors, 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 interventions. (Government Code 12950.2)

(cf. 4131—Staff Development)

(cf. 4231—Staff Development)

(cf. 4331—Staff Development)

NONDISCRIMINATION IN EMPLOYMENT (continued)

- ~~6.7.~~ Periodically review the District's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure the District's compliance with the law and Board Policy 4111 – Recruitment and Selection
- ~~7.8.~~ 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 CCR 11023)

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~~ 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 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. If the complaint is against the Superintendent, then the employee may contact the President of the Board of Trustees.

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 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

NONDISCRIMINATION IN EMPLOYMENT (continued)

allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, 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.

(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, 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 Director of Risk Management and Safety.

The coordinator also shall 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.

NONDISCRIMINATION IN EMPLOYMENT (continued)

4. **Appeal to the Board of Trustees:** 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 ~~DFEH~~CRD or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with ~~DFEH~~CRD 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- (Government Code 12960)
2. For filing a complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a complaint with EEOC after first filing a complaint with ~~DFEH~~CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by ~~DFEH~~CRD, whichever is earlier (42 USC 2000e-5)

An employee may also file a complaint with the Wage and Hour Division of the U.S Department of Labor for an alleged violation of the PUMP Act and/or Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC, 218c, 218d, 42 USC 2000gg-2)

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

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.

NONDISCRIMINATION IN EMPLOYMENT (continued)

State

2 CCR 11006-11086

2 CCR 11023

2 CCR 11024

2 CCR 11027-11028

5 CCR 4900-4965

CA Constitution Article 1, Section 1

Civ. Code 51.7

Ed. Code 200-262.4

Gov. Code 11135

Gov. Code 12900-12996

Gov. Code 12940-12954

Gov. Code 12960-12976

Labor Code 79-107

Labor Code 1030-1034

Labor Code 1197.5

Pen. Code 422.56

Federal

20 USC 1681-1688

28 CFR 35.101-35.190

29 USC 218d

29 USC 621-634

29 USC 794

42 USC 2000gg-2000gg-6

29 CFR 1636

34 CFR 100.6

34 CFR 104.7

34 CFR 104.8

34 CFR 106.1-106.82

34 CFR 110.1-110.39

42 USC 12101-12213

42 USC 2000d-2000d-7

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 educational programs receiving state or federal financial assistance

Inalienable rights

Freedom from violence or intimidation

Prohibition of discrimination

Prohibition of discrimination

Fair Employment and Housing Act

Unlawful employment practices

Unlawful employment practices; complaints

Division of Labor Standards Enforcement

Lactation accommodation

Wages, hours and working conditions

Definitions; hate crimes

Description

Title IX of the Education Amendments of 1972; discrimination based on sex

Americans with Disabilities Act

Fair Labor Standards Act; Providing Urgent

Maternal Protections for Nursing Mothers

(PUMP) Act

Age Discrimination in Employment Act

Rehabilitation Act of 1973; Section 504

Pregnant Workers Fairness Act

Implementation of the Pregnant Workers

Fairness Act

Title VI; Compliance information

Section 504; Designation of responsible

employee and adoption of grievances procedures

Notice of Nondiscrimination on the Basis of

Handicap

Discrimination on the basis of sex; effectuating

Title IX

Nondiscrimination on the basis of age

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

NONDISCRIMINATION IN EMPLOYMENT (continued)

Federal (continued)

42 USC 2000e-2000e-17
42 USC 2000ff-2000ff-11

42 USC 2000h-2-2000h-6
42 USC 6101-6107

Executive Order 11246

U.S. Constitution, First Amendment

Description

Title VII, Civil Rights Act of 1964, as amended
Genetic Information Nondiscrimination Act of 2008

Title IX of the Civil Rights Act of 1964
Age discrimination in federally assisted programs

Equal Employment Opportunity
(<https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>)

Free exercise, free speech, and establishment clauses

Management Resources

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

Court Decision

Court Decision

Description

Family Care and Medical Leave and Pregnancy Disability Leave, January 2023

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/CFRA-and-Pregnancy-Leave_ENG.pdf)

California Law Prohibits Workplace Discrimination and Harassment, January 2024

The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/11/The-Rights-of-Employees-who-are-Transgender-or-Gender-Nonconforming-Fact-Sheet_ENG.pdf)

Harassment Prevention Guide for California Employers, 2017

(<https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide-1.pdf>)

Your Rights and Obligations as a Pregnant Employee, January 2023

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/Your-Rights-and-Obligations-as-a-Pregnant-Employee_ENG.pdf)

Sexual Harassment, January 2023

(https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Sexual-Harassment-Poster_ENG.pdf)

Groff v. DeJoy (2023) 600 U.S. 447

Kennedy v. Bremerton (2022) 142 S.Ct. 2407

NONDISCRIMINATION IN EMPLOYMENT (continued)

Management Resources (continued)

Court Decision

Description

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

Court Decision

Thomson v. North American Stainless LP (2011) 62 U.S. 170

Court Decision

Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775

Court Decision

Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742

U.S. DOE Publication

Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
(https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

Federal Register

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
(<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>)

U.S. Equal Employment Opportunity Comm Publication

Know Your Rights: Workplace Discrimination is Illegal, June 2023 (<https://www.eeoc.gov/poster>)

U.S. Equal Employment Opportunity Comm Publication

Enforcement Guidance on Harassment in the Workplace, April 2024
(<https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace>)

U.S. Equal Employment Opportunity Comm Publication

EEOC Compliance Manual
(<https://www.eeoc.gov/guidance-subject-area>)

Website

Equal Employment Opportunity Commission
(<https://www.eeoc.gov/>)

Website

U.S. Department of Labor, Office of Federal Contract Compliance Program

Website

CSBA District and County Office of Education Legal Services

Website

California Civil Rights Department

Website

California Department of Industrial Relations
(<https://www.dir.ca.gov/>)

Website

U.S. Department of Education, Office for Civil Rights

Website

U.S. Equal Employment Opportunity Commission

NONDISCRIMINATION IN EMPLOYMENT (continued)

Cross References

<u>Code</u>	<u>Description</u>
<u>1113</u>	<u>District And School Websites</u>
<u>1113-E(1)</u>	<u>District And School Websites</u>
<u>1114</u>	<u>District-Sponsored Social Media</u>
<u>1240</u>	<u>Volunteer Assistance</u>
<u>1312.1</u>	<u>Complaints Concerning District Employees</u>
<u>1312.3</u>	<u>Uniform Complaint Procedures</u>
<u>1312.3-E(1)</u>	<u>Uniform Complaint Procedures</u>
<u>1312.3-E(2)</u>	<u>Uniform Complaint Procedures</u>
<u>1313</u>	<u>Civility</u>
<u>3312</u>	<u>Contracts</u>
<u>3530</u>	<u>Risk Management/Insurance</u>
<u>3580</u>	<u>District Records</u>
<u>3600</u>	<u>Consultants</u>
<u>4000</u>	<u>Concepts And Roles</u>
<u>4032</u>	<u>Reasonable Accommodation</u>
<u>4033</u>	<u>Lactation Accommodation</u>
<u>4111</u>	<u>Recruitment And Selection</u>
<u>4111.2</u>	<u>Legal Status Requirement</u>
<u>4112.4</u>	<u>Health Examinations</u>
<u>4112.41</u>	<u>Employee Drug Testing</u>
<u>4112.5</u>	<u>Criminal Record Check</u>
<u>4112.6</u>	<u>Personnel Files</u>
<u>4112.8</u>	<u>Employment Of Relatives</u>
<u>4112.9</u>	<u>Employee Notifications</u>
<u>4112.9-E(1)</u>	<u>Employee Notifications</u>
<u>4113.5</u>	<u>Working Remotely</u>
<u>4114</u>	<u>Transfers</u>
<u>4118</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4119.1</u>	<u>Civil And Legal Rights</u>
<u>4119.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4119.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.22</u>	<u>Dress And Grooming</u>
<u>4119.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4119.41</u>	<u>Employees With Infectious Disease</u>
<u>4131</u>	<u>Staff Development</u>
<u>4144</u>	<u>Complaints</u>
<u>4151</u>	<u>Employee Compensation</u>
<u>4154</u>	<u>Health And Welfare Benefits</u>

NONDISCRIMINATION IN EMPLOYMENT (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4161.5</u>	<u>Military Leave</u>
<u>4161.8</u>	<u>Family Care And Medical Leave</u>
<u>4211</u>	<u>Recruitment And Selection</u>
<u>4211.2</u>	<u>Legal Status Requirement</u>
<u>4212.4</u>	<u>Health Examinations</u>
<u>4212.41</u>	<u>Employee Drug Testing</u>
<u>4212.6</u>	<u>Personnel Files</u>
<u>4212.8</u>	<u>Employment Of Relatives</u>
<u>4212.9</u>	<u>Employee Notifications</u>
<u>4212.9-E(1)</u>	<u>Employee Notifications</u>
<u>4213.5</u>	<u>Working Remotely</u>
<u>4218</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4218.1</u>	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
<u>4219.1</u>	<u>Civil And Legal Rights</u>
<u>4219.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4219.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.22</u>	<u>Dress And Grooming</u>
<u>4219.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4219.41</u>	<u>Employees With Infectious Disease</u>
<u>4231</u>	<u>Staff Development</u>
<u>4244</u>	<u>Complaints</u>
<u>4251</u>	<u>Employee Compensation</u>
<u>4254</u>	<u>Health And Welfare Benefits</u>
<u>4261.5</u>	<u>Military Leave</u>
<u>4261.8</u>	<u>Family Care And Medical Leave</u>
<u>4311</u>	<u>Recruitment And Selection</u>
<u>4311.2</u>	<u>Legal Status Requirement</u>
<u>4312.4</u>	<u>Health Examinations</u>
<u>4312.41</u>	<u>Employee Drug Testing</u>
<u>4312.6</u>	<u>Personnel Files</u>
<u>4312.8</u>	<u>Employment Of Relatives</u>
<u>4312.9</u>	<u>Employee Notifications</u>
<u>4312.9-E(1)</u>	<u>Employee Notifications</u>
<u>4313.5</u>	<u>Working Remotely</u>
<u>4319.1</u>	<u>Civil And Legal Rights</u>
<u>4319.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>

NONDISCRIMINATION IN EMPLOYMENT (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4319.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.22</u>	<u>Dress And Grooming</u>
<u>4319.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4319.41</u>	<u>Employees With Infectious Disease</u>
<u>4331</u>	<u>Staff Development</u>
<u>4344</u>	<u>Complaints</u>
<u>4351</u>	<u>Employee Compensation</u>
<u>4354</u>	<u>Health And Welfare Benefits</u>
<u>4361.5</u>	<u>Military Leave</u>
<u>4361.8</u>	<u>Family Care And Medical Leave</u>
<u>9000</u>	<u>Role Of The Board</u>
<u>9321</u>	<u>Closed Session</u>
<u>9321-E(1)</u>	<u>Closed Session</u>
<u>9321-E(2)</u>	<u>Closed Session</u>

Regulation

approved: ~~November 10, 2020~~

First Reading: November 12, 2024

BEAUMONT UNIFIED SCHOOL DISTRICT
Beaumont, California

LACTATION ACCOMMODATION

The Board of Trustees recognizes the immediate and long-term health ~~advantages~~ benefits of breastfeeding for infants and mothers and desires to provide a supportive environment for any District employee to express breast milk for ~~her~~ an infant child upon ~~her~~ returning to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any District employee ~~who chooses~~ for seeking an accommodation to express breast milk for ~~her~~ an infant child while at work.

(cf. 4030 – Nondiscrimination in Employment)

The District shall provide a reasonable amount of break time to accommodate an employee each time she has a need to express breast milk for her infant child. (Labor Code 1030)

To the extent possible, such break time shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 207)

The employee shall be provided a private location, other than a restroom, which is in close proximity to her work area and meets the requirements of Labor Code 1031 and 29 USC 207, as applicable.

An ~~Employees~~ employee are encouraged to shall notify their ~~the employee's~~ supervisor or other appropriate personnel District administrator in advance of their intent to ~~make use of the~~ request an accommodations offered for employees who are nursing mothers. As needed, ~~the~~ The supervisor or appropriate District administrator shall respond to the request and shall work with the employee to ~~address~~ make arrangements. ~~and~~ If needed, the supervisor or appropriate District administrator shall address scheduling in order to ensure that the employees' essential job duties are covered during the break time.

Lactation accommodations ~~may be denied only in limited circumstances~~ shall be granted in accordance ~~unless limited circumstances exist as specified in~~ with law. (Labor Code 1031, 1032; 29 USC 207218d, 42 USC 2000gg-1)

Before an employee's supervisor makes a determination is made to deny lactation accommodations to an employee, ~~he/she~~ the employee's supervisor shall consult with the Superintendent or designee. ~~In any case in which~~ When lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent or designee shall provide a written response to any employee who was denied the accommodation(s). (Labor Code 1034)

The District shall include this policy in its employee handbook or in any set of policies that the District makes available to employees. In addition, the Superintendent or designee shall distribute this policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)

LACTATION ACCOMMODATION (continued)

Break Time and Location Requirements

The District shall provide a reasonable amount of break time to accommodate an employee each time the employee has a need to express breast milk for an infant child. (Labor Code 1030; 42 USC 2000gg-1; 34 CFR 106.57)

To the extent possible, any break time granted for lactation accommodation shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 218d)

The employee shall be provided a lactation space which may be used by the employee for expressing breast milk or breastfeeding as needed. The lactation space shall be a private room or location, other than a bathroom, which may be the employee's work area or another location that is in close proximity to the employee's work area, and shall meet the following requirements: (Labor Code 1031; 29 USC 218d; 34 CFR 106.57)

1. Is shielded from view and free from intrusion while the employee is expressing breast milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code 6382
3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump
5. Has access to sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing breast milk in close proximity to the employee's workspace

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code 1031)

Dispute Resolution

Complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

LACTATION ACCOMMODATION (continued)

Additionally, an employee may file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the Providing Urgent Maternal Protections for Nursing Mothers Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2).

In addition, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

Legal Reference: (see next page)

LACTATION ACCOMMODATION (continued)

Legal Reference:

EDUCATION CODE

200 262.4 Prohibition of discrimination on the basis of sex

CIVIL CODE

43.3 Right of mothers to breastfeed in any public or private location

GOVERNMENT CODE

12940 Discriminatory employment practices

12945 Discrimination based on pregnancy, childbirth, or related medical conditions

LABOR CODE

1030 1033 Lactation accommodation

CODE OF REGULATIONS, TITLE 2

7291.2 7291.16 Sex discrimination; pregnancy and related medical conditions

UNITED STATES CODE, TITLE 29

207 Fair Labor Standards Act; lactation accommodation

FAIR EMPLOYMENT AND HOUSING COMMISSION DECISIONS

Department of Fair Employment and Housing v. Acosta-Tacos (Chavez), FEHC Precedential Decision 09-03P, 2009

Management Resources:

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Rest Periods/Lactation Accommodation, Frequently Asked Questions

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

Minimum Requirements of the California Lactation Accommodation Law

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

Lactation Support Program Toolkit

FEDERAL REGISTER

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

The Surgeon General's Call to Action to Support Breastfeeding, 2011

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

Fact Sheet #3: Break Time for Nursing Mothers under the FLSA, rev. December 2010

WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement:

<http://www.dir.ca.gov/dlse>

California Department of Public Health: <http://www.cdph.ca.gov>

California Women, Infants and Children: <http://www.wieworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, Break Time for Nursing Mothers:

<http://www.dol.gov/whd/nursingmothers>

LACTATION ACCOMMODATION (continued)

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 11035-11051

Civ. Code 43.3

Ed. Code 200-262.4

Gov. Code 12925-12954

Gov. Code 12945

Lab. Code 1030-1034

Lab. Code 6382

Description

Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions

Right of mothers to breastfeed in any public or private location

Prohibition of discrimination

Unlawful discriminatory employment practices

Unlawful discrimination based on pregnancy, childbirth, or related medical conditions

Lactation Accommodation

Procedure for listing hazardous substances

Federal

20 USC 1681-1688

29 USC 218c

29 USC 218d

42 USC 2000gg-2000gg-6

29 CFR 1636

34 CFR 106.1-106.82

Description

Title IX of the Education Amendments of 1972; discrimination based on sex

Fair Labor Standards Act; protections for employees

Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act

Pregnant Workers Fairness Act

Implementation of the Pregnant Workers Fairness Act

Discrimination on the basis of sex; effectuating Title IX

Management Resources

CA Department of Industrial Relations Publication

California Department of Public Health Publication

California Civil Rights Department Decision

Description

Rest Periods/Lactation Accommodation, Frequently Asked Questions (https://www.dir.ca.gov/dlse/faq_restperiods.htm)

Lactation Accommodation for Employers (<https://www.cdph.ca.gov/Programs/CFH/DMCAH/Breastfeeding/Pages/Lactation-Accommodation-for-Employers.aspx>)

Department of Fair Employment and Housing v. Acosta Tacos (Chavez), FEHC Precedential Decision 09-03P, 2009

LACTATION ACCOMMODATION (continued)Management Resources (continued)Federal RegisterDescription

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>)

Federal Register

Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 78, No. 244, pages 80073-80079
[https://www.federalregister.gov/documents/2010/12/21/2010-31959/reasonable-break-time-for-nursing-mothers#:~:text=Employers%20are%20required%20to%20provide,207\(r\)\(2\).](https://www.federalregister.gov/documents/2010/12/21/2010-31959/reasonable-break-time-for-nursing-mothers#:~:text=Employers%20are%20required%20to%20provide,207(r)(2).))

U.S. Department of Health & Human Services, Office on Women's Health Publication

The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008
<https://www.womenshealth.gov/breastfeeding/breastfeeding-home-work-and-public/breastfeeding-and-going-back-work/business-case>)

Office of the Surgeon General Publication

The Surgeon General's Call to Action to Support Breastfeeding, 2011
https://www.cdc.gov/breastfeeding/php/resources/surgeon-generals-call-to-action.html?CDC_AAref_Val=https://www.cdc.gov/breastfeeding/resources/calltoaction.htm)

U.S. DoL, Wage and Hour Div., Publication

Education FAQs
<https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-education-faq.pdf>)

U.S. DoL, Wage and Hour Div., Publication

Frequently Asked Questions - Pumping Breast Milk at Work
<https://www.dol.gov/agencies/whd/nursing-mothers/faq>)

U.S. DoL, Wage and Hour Div., Publication

Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work, rev. January 2023
<https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers>)

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Industrial Relations, Division of Labor and Standards Enforcement

LACTATION ACCOMMODATION (continued)**Management Resources (continued)**

<u>Website</u>	<u>California Department of Public Health</u>
<u>Website</u>	<u>California Women, Infants and Children Program</u>
<u>Website</u>	<u>Centers for Disease Control and Prevention</u>
<u>Website</u>	<u>Health Resources and Services Administration</u>
<u>Website</u>	<u>Office of the Surgeon General</u>
<u>Website</u>	<u>U.S. Department of Labor, Wage and Hour Division, FLSA Protections to Pump at Work</u>
<u>Website</u>	<u>Equal Employment Opportunity Commission (https://www.eeoc.gov/)</u>

Cross References

<u>Code</u>	<u>Description</u>
<u>0410</u>	<u>Nondiscrimination In District Programs And Activities</u>
<u>4030</u>	<u>Nondiscrimination In Employment</u>
<u>4032</u>	<u>Reasonable Accommodation</u>
<u>4112.9</u>	<u>Employee Notifications</u>
<u>4112.9-E(1)</u>	<u>Employee Notifications</u>
<u>4113.4</u>	<u>Temporary Modified/Light-Duty Assignment</u>
<u>4119.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4119.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4144</u>	<u>Complaints</u>
<u>4161.8</u>	<u>Family Care And Medical Leave</u>
<u>4212.9</u>	<u>Employee Notifications</u>
<u>4212.9-E(1)</u>	<u>Employee Notifications</u>
<u>4213.4</u>	<u>Temporary Modified/Light-Duty Assignment</u>
<u>4219.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>4219.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4244</u>	<u>Complaints</u>
<u>4261.8</u>	<u>Family Care And Medical Leave</u>
<u>4312.9</u>	<u>Employee Notifications</u>
<u>4312.9-E(1)</u>	<u>Employee Notifications</u>
<u>4313.4</u>	<u>Temporary Modified/Light-Duty Assignment</u>
<u>4319.11</u>	<u>Sex Discrimination and Sex-Based Harassment</u>

LACTATION ACCOMMODATION (continued)

Cross References (continued)

Code

4319.12

4319.12-E(1)

4344

4361.8

Description

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

Complaints

Family Care And Medical Leave

All Personnel

BP 4111(a)

4211

RECRUITMENT AND SELECTION

4311

The Board of Trustees is committed to employing ~~the most~~suitable, qualified ~~and appropriate~~ individuals to effectively carry out the District's vision, mission, and goals, and believes that students benefit when District staff reflects the racial, ethnic, linguistic, and cultural diversity of the District.

(cf. 0000—Vision)

(cf. 0200—Goals for the School District)

(cf. 4000—Concepts and Roles)

(cf. 4100—Certificated Personnel)

(cf. 4200—Classified Personnel)

(cf. 4300—Administrative and Supervisory Personnel)

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the District based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among District employees.

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

(cf. 4030—Nondiscrimination in Employment)

(cf. 4032—Reasonable Accommodation)

(cf. 4111.2/4211.2/4311.2—Legal Status Requirement)

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. ~~He/she~~The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

~~The District's selection procedures~~When posting an employment opportunity, the Superintendent or designee shall include screening processes, assessments, ~~performance assessments when appropriate, interviews, recommendations from previous employers,~~the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and ~~observations when~~maintain appropriate, ~~as necessary~~hiring procedures to identify the best possible candidates for a position.

(cf. 4112.61/4212.61/4312.61—Employment References)

~~The Superintendent or designee may establish~~In doing so, an interview committee may be established to rank candidates and recommend finalists. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential ~~in accordance with law~~and consistent with law.

RECRUITMENT AND SELECTION (continued)

~~(cf. 2230—Representative and Deliberative Groups)~~

~~No inquiry shall be made with regard to any information prohibited by state or federal nondiscrimination laws.~~

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

Unless otherwise provided for in law, the District may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the District may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the District retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

The Superintendent or designee shall not inquire, orally or in writing, ~~in regard to~~ about an applicant's salary history information, including compensation and benefits. ~~He/she~~ Additionally, the Superintendent or designee shall ~~also~~ not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. ~~Upon request, the Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying.~~ (Labor Code 432.3)

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

~~(cf. 4112—Appointment and Conditions of Employment)~~

~~(cf. 4112.2—Certification)~~

~~(cf. 4112.22—Staff Teaching English Language Learners)~~

~~(cf. 4112.23—Special Education Staff)~~

~~(cf. 4112.8/4212.8/4312.8—Employment of Relatives)~~

~~(cf. 4212—Appointment and Conditions of Employment)~~

~~(cf. 4312.1—Contracts)~~

RECRUITMENT AND SELECTION (continued)

Incentives

With Board approval and in accordance with District needs and any applicable collective bargaining agreements, the District may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

Legal Reference: (see next page)

RECRUITMENT AND SELECTION (continued)

Legal Reference:

EDUCATION CODE

~~200-262.4 Prohibition of discrimination~~

~~35035 Responsibilities of superintendent~~

~~44066 Limitations on certification requirement~~

~~44259 Teaching credential; exception; designated subjects; minimum requirements~~

~~44750 Teacher recruitment resource center~~

~~44830-44831 Employment of certificated persons~~

~~44858 Age or marital status in certificated positions~~

~~44859 Prohibition against certain rules and regulations re: residency~~

~~45103-45139 Employment (classified employees)~~

~~49406 Examination for tuberculosis~~

GOVERNMENT CODE

~~815.2 Liability of public entities and public employees~~

~~6250-6276.48 Public Records Act~~

~~12900-12996 Fair Employment and Housing Act, including:~~

~~12940-12957 Discrimination prohibited; unlawful practices~~

HEALTH AND SAFETY CODE

~~53570-53574 Teacher Housing Act of 2016~~

LABOR CODE

~~432.3 Salary information~~

UNITED STATES CODE, TITLE 5

~~552 Freedom of Information Act~~

UNITED STATES CODE, TITLE 8

~~1324a Unlawful employment of aliens~~

~~1324b Unfair immigration related employment practices~~

UNITED STATES CODE, TITLE 20

~~1681-1688 Title IX prohibition against discrimination~~

UNITED STATES CODE, TITLE 42

~~2000d-2000d-7 Title VI, Civil Rights Act of 1964~~

~~2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended~~

~~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

~~106.51-106.61 Nondiscrimination on the basis of sex in employment in education program or activities~~

COURT DECISIONS

~~C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1~~

Management Resources: (see next page)

RECRUITMENT AND SELECTION (continued)

Management Resources:

CALIFORNIA COUNTY SUPERINTENDENTS EDUCATIONAL SERVICES ASSOCIATION PUBLICATIONS

Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017

WEB SITES

California County Superintendents Educational Services Association: <http://eesesa.org/recruit>

California Department of Education: <https://www.ede.ca.gov>

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Commission on Teacher Credentialing: <https://www.ctc.ca.gov>

Education Job Opportunities Information Network: <http://www.edjoin.org>

Teach USA: <https://culturalvistas.org/programs/us/teach-usa>

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

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

Ed. Code 200-262.4

Ed. Code 35035

Ed. Code 44066

Ed. Code 44259

Ed. Code 44750

Ed. Code 44830-44831

Ed. Code 44858

Ed. Code 44859

Ed. Code 45103-45139

Ed. Code 49406

Gov. Code 12900-12996

Gov. Code 7920.000-7930.215

Gov. Code 815.2

H&S Code 53570-53574

Lab. Code 432.3

Description

Prohibition of discrimination

Power and duties of the superintendent; transfer authority

Limitations on certification requirements

Teaching credential, exception; designated subjects; minimum requirements

Teacher recruitment resource center

Employment of certificated persons

Age or marital status in certificated positions

Prohibition against certain rules and regulations regarding residency

Employment: classified employees

Examination for tuberculosis

Fair Employment and Housing Act

California Public Records Act

Liability of public entities and public employees

Teacher Housing Act of 2016

Salary information

Federal

20 USC 1681-1688

28 CFR 35.101-35.190

34 CFR 106.51-106.61

Description

Title IX of the Education Amendments of 1972; discrimination based on sex

Americans with Disabilities Act

Nondiscrimination on the basis of sex in employment in education program or activities

RECRUITMENT AND SELECTION (continued)

Federal (continued)

42 USC 12101-12213
42 USC 2000d-2000d-7
42 USC 2000e-2000e-17
5 USC 552
8 USC 1324a
8 USC 1324b

Description

Americans with Disabilities Act
Title VI, Civil Rights Act of 1964
Title VII, Civil Rights Act of 1964, as amended
Freedom of Information Act
Unlawful employment aliens
Unfair immigration related employment practices

Management Resources

California County Superintendents
Publication

Description

Teacher Recruitment in California: an Analysis of Effective
Strategies, Research Brief, Veritas Research and Evaluation
Group, October 2017

California Department of
Education Publication

How to Increase the Diversity of California’s Educator
Workforce, April 2022

([https://www.cde.ca.gov/pd/ee/documents/
dtwcouncilreportapril22.pdf](https://www.cde.ca.gov/pd/ee/documents/dtwcouncilreportapril22.pdf))

California Commission on Teacher
Credentialing Publication

Strategic Plan: Ensuring Educator Excellence, 2023

([https://www.ctc.gov/docs/default-
source/commission/files/ctc-strategic-
plan.pdf?sfvrsn=baef20b1_12](https://www.ctc.gov/docs/default-source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1_12))

Center for Cities + Schools,
cityLAB, and Turner Center for
Housing Innovation Publication
Center for Cities + Schools,
cityLAB, and Turner Center for
Housing Innovation Publication

Education Workforce Housing Handbook, 2022

([https://citylab.ucla.edu/education-workforce-housing-
research-report](https://citylab.ucla.edu/education-workforce-housing-research-report))

Education Workforce Housing in California: Developing
the 21st Century Campus, 2021

([https://citylab.ucla.edu/education-workforce-housing-
research-report](https://citylab.ucla.edu/education-workforce-housing-research-report))

Court Decision

C.A. v William S. Hart Union High School District et al.
(2012) 138 Cal.Rptr.3d 1

Website

CSBA District and County Office of Education Legal
Services

Website

California Department of Education

(<https://www.cde.ca.gov/>)

Website

Commission on Teacher Credentialing

Website

Education Job Opportunities Information Network

Website

Teach USA

Website

California County Superintendents

Website

California Civil Rights Department

Website

U.S. Department of Education

Website

U.S. Equal Employment Opportunity Commission

RECRUITMENT AND SELECTION (continued)

Management Resources

(continued)

Website

Description

University of California Berkeley, Center for Cities + Schools (<https://citiesandschools.berkeley.edu/>)

Website

University of California Berkeley, Turner Center for Housing Innovation (<https://turnercenter.berkeley.edu/>)

Website

University of California Los Angeles, cityLAB (<https://www.citylab.ucla.edu/>)

Cross References

Code

0000

Description

Vision

0200

Goals For The School District

0410

Nondiscrimination In School District Programs And Activities

2230

Representative And Deliberative Groups

3542

School Bus Drivers

4000

Concepts and Roles

4030

Nondiscrimination In Employment

4032

Reasonable Accommodation

4100

Certificated Personnel

4111.2

Legal Status Requirement

4112

Appointment And Conditions of Employment

4112.2

Certification

4112.21

Interns

4112.22

Staff Teaching English Learners

4112.23

Special Education Staff

4112.61

Employment References

4112.8

Employment of Relatives

4113

Assignment

4117.14

Postretirement Employment

4200

Classified Personnel

4211.2

Legal Status Requirement

4212

Appointment And Conditions of Employment

4212.61

Employment References

4212.8

Employment of Relatives

4300

Administrative And Supervisory Personnel

4311.2

Legal Status Requirement

4312.1

Contracts

4312.61

Employment References

4312.8

Employment of Relatives

BP 4111(h)
4211
4311

RECRUITMENT AND SELECTION (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4317.14</u>	<u>Postretirement Employment</u>
<u>4331</u>	<u>Staff Development</u>
<u>6141.4</u>	<u>International Baccalaureate Program</u>
<u>6141.5</u>	<u>Advanced Placement</u>
<u>6171</u>	<u>Title I Programs</u>
<u>9000</u>	<u>Role Of The Board</u>

Policy

Adopted: ~~April 24, 2018~~ **First Reading: November 12, 2024**

BEAUMONT UNIFIED SCHOOL DISTRICT

Beaumont, California

All Personnel

E 4112.5(a)
4212.5
4312.5

CRIMINAL RECORD CHECK

As an employee/volunteer of Beaumont Unified School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

“Any person authorized by law to receive a record of information obtained from a record who knowingly furnished the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor.”

Civil Code 1798.53, Invasion of Privacy, states:

“Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of record maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual.”

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy
- Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

CRIMINAL RECORD CHECK (continued)

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDIN MISUSE OF CRIMINIAL RECORD INFORMATION.

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

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

11 CCR 701-708

11 CCR 720-724

11 CCR 994-994.15

Ed. Code 44010

Ed. Code 44011

Ed. Code 44332-44332.6

Ed. Code 44346.1

Ed. Code 44830.1

Ed. Code 44830.2

Ed. Code 44836

Ed. Code 44932

Ed. Code 45122.1

Ed. Code 45125

Ed. Code 45125.01

Ed. Code 45125.5

Ed. Code 45126

Ed. Code 49024

Gov. Code 12954

Description

Criminal offender record information

Incomplete criminal history information

Certification of individuals who take fingerprint impressions

Sex offense; definitions

Controlled substance offense

Temporary certificate of clearance

Applicants for credential; conviction of a violent or serious felony

Criminal record summary certificated employees

Certificated employees; interagency agreement for sharing criminal record information

Employment of certificated persons convicted of sex offense or controlled substance offense

Grounds for dismissal of permanent employees

Classified employees; conviction of a violent or serious felony

Use of personal identification cards to ascertain conviction of crime

Interagency agreements for criminal record information

Automated records check

Duty of Department of Justice to furnish information

Activity Supervisor Clearance Certificate

Employment discrimination; cannabis use

E 4112.5(c)
4212.5
4312.5

CRIMINAL RECORD CHECK (continued)

State (continued)

H&S Code 11350

H&S Code 11377

Pen. Code 11075-11081

Pen. Code 11102.2

Pen. Code 11105

Pen. Code 11105.2

Pen. Code 11105.3

Pen. Code 11140-11144

Pen. Code 1192.7

Pen. Code 1203.4

Pen. Code 1203.425

Pen. Code 13300-13305

Pen. Code 667.5

Management Resources

Court Decision

Website

Website

Website

Description

Offenses Involving Controlled Substances Formerly Classified as Narcotics

Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs

Criminal record dissemination

Maintenance of criminal offender records; custodian of records

Access to criminal history information

Subsequent arrest notification

Record of conviction involving sex crimes, drug crimes, or crimes of violence

Furnishing of state criminal history information

Plea bargaining limitation

Dismissal of conviction

Conviction relief

Local summary criminal history information

Prior prison terms; enhancement of prison terms

Description

Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger (1989) 214 Cal. App. 3d 145

CSBA District and County Office of Education Legal Services

Office of the Attorney General, Department of Justice, Background Checks

CSBA

Cross References

Code

1240

1340

2120

3515.3

3542

3580

4112

4112.2

4112.6

4112.9

4112.9-E(1)

Description

Volunteer Assistance

Access To District Records

Superintendent Recruitment And Selection

District Police/Security Department

School Bus Drivers

District Records

Appointment And Conditions Of Employment

Certification

Personnel Files

Employee Notifications

Employee Notifications

E 4112.5(d)
4212.5
4312.5

CRIMINAL RECORD CHECK (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4116</u>	<u>Probationary/Permanent Status</u>
<u>4118</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4119.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4121</u>	<u>Temporary/Substitute Personnel</u>
<u>4127</u>	<u>Temporary Athletic Team Coaches</u>
<u>4200</u>	<u>Classified Personnel</u>
<u>4212</u>	<u>Appointment And Conditions Of Employment</u>
<u>4212.6</u>	<u>Personnel Files</u>
<u>4212.9</u>	<u>Employee Notifications</u>
<u>4212.9-E(1)</u>	<u>Employee Notifications</u>
<u>4218</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4218.1</u>	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
<u>4219.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4227</u>	<u>Temporary Athletic Team Coaches</u>
<u>4312.6</u>	<u>Personnel Files</u>
<u>4312.9</u>	<u>Employee Notifications</u>
<u>4312.9-E(1)</u>	<u>Employee Notifications</u>
<u>4319.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4327</u>	<u>Temporary Athletic Team Coaches</u>
<u>5148</u>	<u>Child Care And Development</u>
<u>5148.2</u>	<u>Before/After School Programs</u>
<u>5148.3</u>	<u>Preschool/Early Childhood Education</u>
<u>6145</u>	<u>Extracurricular And Cocurricular Activities</u>
<u>9011</u>	<u>Disclosure Of Confidential/Privileged Information</u>

PROBATIONARY/PERMANENT STATUS

The Board of Trustees desires to employ and retain highly qualified certificated personnel to implement the District's educational program. Newly hired certificated personnel shall serve a probationary period during which the Board shall determine their suitability for long-term District employment.

Certificated employees who satisfactorily complete the probationary period shall be granted permanent status.

A probationary employee who has been employed by the District in position(s) requiring certification for two complete consecutive school years and is then reelected for the next succeeding school year shall become a permanent employee at the beginning of the third year. (Education Code 44929.21, 44929.23)

Probationary Status

During the probationary period, Probationary employees shall receive training, professional development and assistance and evaluations consistent with their needs as new teachers. Such training and assistance which may consist of inservice training and/or meetings with the employee's evaluator to discuss areas of strength and areas requiring improvement. Inservice training may be provided during school hours as part of a comprehensive staff development program.

(cf. 4131 - Staff Development)

The performance of each probationary employee shall be evaluated and assessed at least once every school year.

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

Dismissal/Non-reelection of Probationary Employees

During the school year, a probationary employee may be suspended or dismissed only for cause and in accordance with District procedures. (Education Code 44948.3)

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

With proper notice, the Board may, without cause, elect not to reemploy a probationary employee for the subsequent year. (Education Code 44929.21, 44929.23)

(cf. 4117.3 - Personnel Reduction)

The Superintendent or designee shall annually provide the Board with recommendations regarding the reelection or non-reelection of probationary certificated personnel for the ensuing school year.

PROBATIONARY/PERMANENT STATUS (continued)

At any time during the probationary employee's first year of employment in the District, the Board may give written notice to the employee of the Board's decision not to reelect the employee for a second school year. If the Board does not give written notice, the employee shall be deemed reelected for the next succeeding school year.

During the final year of the probationary period, the Board may decide not to reelect the employee for the following year, and shall notify the employee in writing on or before March 15. If the Board does not give written notice on or before March 15, the employee shall be deemed reelected for the next succeeding school year. (Education Code 44929.21, 44948.5)

(cf. 4112.9/4212.9/4312.9 – Employee Notification)

Such notices shall be delivered through personal service upon the employee, certified mail with return receipt, email, or another method which documents actual receipt of the notice by the employee.

Permanent Status

~~Granting of permanent status shall be based on completion of the probationary period in accordance with applicable law. Employees granted permanent status acquire specific rights under the Education Code, including those relating to discipline and dismissal. (Education Code 44932-44988)~~

~~*(cf. 4117.6 – Decision Not to Rehire)*~~

~~*(cf. 4118 – Dismissal/Suspension/Disciplinary Action)*~~

Legal Reference: (see next page)

PROBATIONARY/PERMANENT STATUS (continued)

Legal Reference:

EDUCATION CODE

44466 Status of university interns

44850.1 No tenure in administrative or supervisory position

44885.5 Status of district interns

44908 Complete year for probationary employees

44909 Classification of certificated employees in categorically funded projects

~~44911~~44910-44913 Service not computed in eligibility for permanent status

44915 Classification of probationary employees

44917-44921 Status of substitute or temporary employees

44929.20 Continuing contracts (not to exceed four years - ADA under 250)

44929.21 Districts of 250 ADA or more

44929.23 Districts with less than 250 ADA

44929.28 Employment by another district

44930-44988 Resignations, dismissals and leaves of absence, especially:

44948.2 Election to use provisions of Section 44948.3

44948.3 Dismissal of probationary employees

44948.5 Non-reelection procedures, districts under 250 ADA

44949 Cause, notice and right to hearing required for dismissal of probationary employee

44955 Reduction in number of permanent employees

COURT DECISIONS

Grace v. Beaumont Unified School District (2013) 216 Cal. App. 4th 1325

Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 203 Cal. App. 4th 1552

Sullivan v. Centinela Valley Union High School District (2011) 194 Cal. App. 4th 69

California Teachers Assn. v. Vallejo City Unified School District (2007) 149 Cal. App. 4th 135, 146

Hoschler v. Sacramento City Unified School District (2007) 149 Cal. App. 4th 258

Bakersfield Elementary Teachers Assn. v. Bakersfield City School District (2006) 145 Cal. App. 4th 1260, 1280

Fischer v. Los Angeles Unified School District (1999) 70 Cal. App. 4th 87

Bellflower Education Assn. v. Bellflower Unified School District (1991) 228 Cal. App. 3d 805

Fontana Teachers Assn. v. Fontana Unified School District (1988) 201 Cal. App. 3d 1517

Grimsley v. Board of Trustees (1987) 189 Cal. App. 3d 1440

CIVIL AND LEGAL RIGHTS

The Board of Trustees believes that the personal life of an employee is not an appropriate concern of the District, except as it may directly relate to the ~~employee's performance of his/her duties.~~

~~An employee's personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not violate law, Board policy, or administrative regulation~~ performance of the employee's duties.

~~(cf. 4030 – Nondiscrimination in Employment)
(cf. 4119.21/4219.21/4319.21 – Professional Standards)
(cf. 4119.25/4219.25/4319.25 – Political Activities of Employees)~~

District employees may engage in private, personal activities, including the exercise of their religious, political, cultural, social or other beliefs or activities, during personal time including when employees are not on duty or engaged in the supervision or instruction of students.

The District shall make no inquiry concerning the personal values, attitudes, and beliefs of District employees or their sexual orientation or political or religious affiliations, beliefs, or opinions except when authorized by law. In addition, no District employee shall be required to provide critical appraisals of other individuals with whom the employee has a familial relationship. However, the District reserves the right to access any publicly available information about any employee.

No employee shall be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in conduct authorized under Education Code 48907 or 48950.

When necessary to protect the health, welfare, or safety of students and staff, school officials may search District property under an employee's control.

~~(cf. 3515 – Campus Security)
(cf. 4040 – Employee Use of Technology)~~

Whistleblower Protection

An employee shall have the right to disclose to a Board member, a school administrator, a member of the County Board of Education, the County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the District or a District employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation of or noncompliance with a state or federal rule or regulation, ~~he/she~~ the employee has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

CIVIL AND LEGAL RIGHTS (continued)

The Superintendent or designee shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code 1102.7, 1102.8)

No employee shall use or attempt to use his/her official authority status or influence to intimidate, threaten, coerce, or command, or attempt to intimidate, threaten, coerce, or command, another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

(cf. 4118—Suspension/Disciplinary Action)

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

An employee who has disclosed improper governmental activity and believes that ~~he/she has~~ subsequently been subjected to acts or attempted acts of reprisal have subsequently occurred shall file a written complaint in accordance with the District's complaint procedures. After filing a complaint with the District, the employee may also file a copy of the complaint with local law enforcement and/or seek civil law remedies against the supervisor or administrator who retaliated or attempted to retaliate against ~~him/her~~ the employee, in accordance with Education Code 44114.

(cf. 1312.1—Complaints Concerning District Employees)

(cf. 1312.3—Uniform Complaint Procedures)

(cf. 4144/4244/4344—Complaints)

Protection Against Liability

No employee shall be liable for harm caused by ~~his/her~~ the employee's act or omission when ~~he/she is acting within the scope of employment or District responsibilities; when,~~ the employee's act or omission is in conformity with federal ~~or,~~ state, and local laws ~~law,~~ District policy, or administrative regulation; ~~or when,~~ and the employee's act or omission is in furtherance of an effort to control, discipline, expel, or suspend a student or to maintain order or control in the classroom or school. (20 USC 7946)

(cf. 3320—Claims and Actions Against the District)

(cf. 9260—Legal Protection)

The protection against liability shall not apply when: (20 USC 7946)

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to rights or safety of the individual harmed.
2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.

CIVIL AND LEGAL RIGHTS (continued)

3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.
5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.
8. The misconduct occurred during background investigations, or other actions, involved in the employee's hiring.

Legal Reference: (see next page)

CIVIL AND LEGAL RIGHTS (continued)

Legal Reference:

EDUCATION CODE

~~200-262.4 Prohibition of discrimination~~

~~7050-7058 Political activities of school officers and employees~~

~~44040 Discrimination based on employee's appearance before certain boards or committees~~

~~44110-44114 Reporting by school employees of improper governmental activity~~

~~48907 Student freedom of expression; employee's protection of student rights~~

~~48950 Speech and other communication~~

~~49091.24 Teacher rights to refuse evaluation/survey of personal life~~

CIVIL CODE

~~51 Unruh Civil Rights Act~~

GOVERNMENT CODE

~~815.3 Intentional torts~~

~~820-823 Tort claims act~~

~~825.6 Indemnification of public entity~~

~~3540.1 Public employment definitions~~

~~3543.5 Interference with employee's rights prohibited~~

~~12650-12656 False claims actions~~

~~12940-12951 Discrimination prohibited; unlawful practices~~

LABOR CODE

~~1102.5-1106 Whistleblower protections~~

UNITED STATES CODE, TITLE 18

~~16 Crime of violence defined~~

UNITED STATES CODE, TITLE 20

~~6731-6738 Teacher liability protection~~

UNITED STATES CODE, TITLE 42

~~2000d-2000d-7 Title VI, Civil Rights Act~~

~~2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended~~

~~2000h-2000h-6 Title IX, 1972 Education Act Amendments~~

~~12101-12213 Americans with Disabilities Act~~

COURT DECISIONS

~~*Hartnett v. Crosier*, (2012) 205 Cal.App.4th 685~~

~~*Johnson v. Poway Unified School District*, (2011) 658 F.3d 954~~

~~*Ohton v. CSU San Diego*, (2007) 56 Cal.Rptr.3d 111~~

~~*Garcetti v. Ceballos*, (2006) 543 U.S. 1186~~

~~*O'Conner v. Ortega*, (1987) 480 U.S. 709~~

~~*New Jersey v. T.L.O.*, (1985) 468 U.S. 325~~

Management Resources:

WEB SITES

California Attorney General: <http://www.oag.ca.gov>

CIVIL AND LEGAL RIGHTS (continued)

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

Ed. Code 200-262.4

Ed. Code 44040

Ed. Code 44110-44114

Ed. Code 48907

Ed. Code 48950

Ed. Code 49091.24

Ed. Code 7050-7058

Gov. Code 12650-12656

Gov. Code 12940-12953

Gov. Code 3540.1

Gov. Code 3543.5

Gov. Code 815.3

Gov. Code 820-823

Gov. Code 825.6

Lab. Code 1102.5-1106

California Constitution Article 1,
Section 1

Federal

18 USC 16

20 USC 1681-1688

20 USC 7941-7948

42 USC 12101-12213

42 USC 2000d-2000d-7

Description

Prohibition of discrimination

Discrimination based on employee's appearance before
certain boards or committees

Reporting by school employees of improper governmental
activity

Exercise of free expression; time, place and manner rules and
regulations

Speech and other communication

Teacher rights to refuse evaluation/survey of personal life

Political activities of school officers and employees

False claims actions

Discrimination prohibited; unlawful practices

Public employment; definitions

Interference with employee's rights prohibited

Intentional torts

Tort claims act

Indemnification of publicentity

Whistleblower protections

Inalienable rights

Description

Crime of violence; definition

Title IX of the Education Amendments of 1972;
discrimination based on sex

Teacher liability protection

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

CIVIL AND LEGAL RIGHTS (continued)

Federal (continued)

42 USC 2000e-2000e-17

U.S. Constitution First Amendment

Description

Title VII, Civil Rights Act of 1964, as amended

Free exercise, free speech, and establishment clause

Management Resources

Court Decision

Description

Kennedy v. Bremerton

(2022) 142 S. Ct. 2407

Court Decision

New Jersey v. T.L.O. (1985) 469

U.S. 325

Court Decision

O'Conner v. Ortega (1987) 480 U.S. 709

Court Decision

Ohton v. CSU San Diego (2007) 56 Cal.Rptr.3d 111

Court Decision

Garcetti v. Ceballos (2006) 547 U.S. 410

Court Decision

Hartnett v. Crosier (2012) 205 Cal.App.4th 685

Court Decision

Johnson v. Poway Unified School District (2011)

658 F.3d 954

Website

California Office of the Attorney General

Cross References

Code

1312.1

Description

Complaints Concerning District Employees

1312.3

Uniform Complaint Procedures

1312.3-E PDF(1)

Uniform Complaint Procedures

1312.3-E PDF(2)

Uniform Complaint Procedures

3320

Claims And Actions Against The District

3400

Management Of District Assets/Accounts

3515

Campus Security

4030

Nondiscrimination In Employment

4040

Employee Use Of Technology

4040-E(1)

Employee Use Of Technology

4040-E PDF(1)

Employee Use Of Technology

4118

Dismissal/Suspension/Disciplinary Action

4119.21

Professional Standards

4119.21-E(1)

Professional Standards

CIVIL AND LEGAL RIGHTS (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4119.21-E PDF(1)</u>	<u>Professional Standards</u>
<u>4119.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4119.25</u>	<u>Political Activities Of Employees</u>
<u>4132</u>	<u>Publication Or Creation Of Materials</u>
<u>4136</u>	<u>Nonschool Employment</u>
<u>4140</u>	<u>Bargaining Units</u>
<u>4144</u>	<u>Complaints</u>
<u>4218</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4218.1</u>	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
<u>4219.21</u>	<u>Professional Standards</u>
<u>4219.21-E(1)</u>	<u>Professional Standards</u>
<u>4219.21-E PDF(1)</u>	<u>Professional Standards</u>
<u>4219.23</u>	<u>Unauthorized Release Of Confidential/Privileged Information</u>
<u>4219.25</u>	<u>Political Activities Of Employees</u>
<u>4232</u>	<u>Publication or Creation of Materials</u>
<u>4236</u>	<u>Nonschool Employment</u>
<u>4240</u>	<u>Bargaining Units</u>
<u>4244</u>	<u>Complaints</u>
<u>4319.21</u>	<u>Professional Standards</u>
<u>4319.21-E(1)</u>	<u>Professional Standards</u>
<u>4319.21-E PDF(1)</u>	<u>Professional Standards</u>
<u>4319.25</u>	<u>Political Activities Of Employees</u>
<u>4332</u>	<u>Publication or Creation of Materials</u>
<u>4336</u>	<u>Nonschool Employment</u>
<u>4340</u>	<u>Bargaining Units</u>
<u>4344</u>	<u>Complaints</u>
<u>9260</u>	<u>Legal Protection</u>

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the District.

The Board of Trustees is committed to providing a safe work environment that is free of discrimination, harassment, and intimidation. The Board prohibits ~~sexual~~ sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against District employees and ~~retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.~~

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

(cf. 4030 – Nondiscrimination in Employment)

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1: 34 CFR 106.71)

~~Sexual harassment includes, but is not limited to, harassment that is based on sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.~~

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of ~~sexual~~ sex discrimination and sex-based harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the District's ~~sexual~~ sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply
3. Publicizing, in accordance with 34 CFR 106.8 and as specified in Administrative Regulation 4030 – Nondiscrimination in Employment, a Title IX notice of nondiscrimination to employees, applicants for employment, and bargaining units
34. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures
45. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

Sexual Harassment Reports and Complaints

SEX DISCRIMINATION AND SEX-BASED ~~SEXUAL HARASSMENT~~ (continued)

The Superintendent or designee shall periodically evaluate the effectiveness of the District's strategies to prevent and address sex discrimination and sex-based harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether sex discrimination and/or sex-based harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the District's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to ~~the~~ harassment policy(ies), complaint procedures, or training, as appropriate and in accordance with law.

Reports and Complaints

~~District employees who feel that they have been sexually harassed in the performance of their Any district~~ District responsibilities or who have knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to their direct supervisor, a District administrator, or the District's who has experienced sex discrimination or sex-based harassment in the District's education program or activity may file a complaint with the District's Title IX Coordinator. Employees may bypass their supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall promptly notify the Title IX Coordinator. (34 CFR 106.2, 106.44)

Any employee with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment by or against another District employee, a student, or a third party in a District education program or activity shall notify the Title IX Coordinator within one workday. An employee may be subject to discipline for failure to timely report such conduct. (34 CFR 106.44)

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through ~~AR~~ Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~ Sex Discrimination and Sex-Based Harassment Complaint Procedures ~~or AR 4030~~ - Nondiscrimination in Employment, as applicable. ~~A complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets the requirements of AR 4030.~~

(cf. 4119.12/4219.12/4319.12 Title IX Sexual Harassment Complaints)

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the District has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances. (34 CFR 106.44)

Upon investigation of a ~~sexual~~ sex discrimination or sex-based harassment complaint, any ~~district~~ District employee found to have engaged or participated in ~~sexual~~ sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit sexual

SEX DISCRIMINATION AND SEX-BASED SEXUAL HARASSMENT (continued)

harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

(cf. 4117.7/4317.7 – Employment Status Reports)
(cf. 4118 – Dismissal/Suspension/Disciplinary Action)
(cf. 4218 – Dismissal/Suspension/Disciplinary Action)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act, especially:

12940 Prohibited discrimination

12950 Sexual harassment; distribution of information

12950.1 Sexual harassment training

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

11021 Retaliation

11023 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 42

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.9 Nondiscrimination on the basis of sex in education programs or activities

106.51-106.82 Nondiscrimination on the basis of sex in employment in education program or activities

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Faragher v. City of Boeja Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncale v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998

Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Promising Practices for Preventing Harassment, November 2017

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/oer/index.html>

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

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 11009

2 CCR 11021

2 CCR 11023

2 CCR 11024

2 CCR 11034

5 CCR 4900-4965

Ed. Code 200-262.4

Ed. Code 220.1

Ed. Code 220.3

Ed. Code 220.5

Gov. Code 12900-12996

Gov. Code 12940

Gov. Code 12950

Gov. Code 12950.1

Lab. Code 1101

Lab. Code 1102.1

Lab. Code 1197.5

Federal

20 USC 1681-1688

29 CFR 1636

34 CFR 106.1-106.82

42 USC 2000e-2000e-17

Description

Discrimination in employment

Employment discrimination

Discrimination in employment - retaliation

Harassment and discrimination prevention and correction

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

Terms, conditions, and privileges of employment

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Prohibition of discrimination

Prohibition of retaliation related to educational equity

Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression

Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

Fair Employment and Housing Act

Unlawful discriminatory employment practices

Sexual harassment

Sexual harassment training

Political activities of employees

Discrimination: sexual orientation

Wages, hours, and working conditions

Description

Title IX of the Education Amendments of 1972: discrimination based on sex

Implementation of the Pregnant Workers

Fairness Act

Nondiscrimination on the basis of sex in employment in education programs or activities

Title VII, Civil Rights Act of 1964, as amended

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

Federal (continued)

42 USC 2000gg-2000gg-6

Description

Pregnant Workers Fairness Act

Management Resources

Court Decision

Description

Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257

Court Decision

Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026

Court Decision

Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275

Court Decision

Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989

Court Decision

Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57

Court Decision

Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998

Federal Register

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896 (<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>)

U.S. Equal Employment Opportunity Com. Publication

Promising Practices for Preventing Harassment, November 2017

Website

CSBA District and County Office of Education Legal Services

Website

California Civil Rights Department

Website

California Department of Education

(<https://www.cde.ca.gov/>)

Website

U.S. Department of Education, Office for Civil Rights

Website

U.S. Equal Employment Opportunity Commission

Cross References

Code

Description

0410

Nondiscrimination In District Programs And Activities

0450

Comprehensive Safety Plan

1312.3

Uniform Complaint Procedures

1312.3-E(1)

Uniform Complaint Procedures

1312.3-E(2)

Uniform Complaint Procedures

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>1313</u>	<u>Civility</u>
<u>3530</u>	<u>Risk Management/Insurance</u>
<u>3600</u>	<u>Consultants</u>
<u>4030</u>	<u>Nondiscrimination In Employment</u>
<u>4033</u>	<u>Lactation Accommodation</u>
<u>4040</u>	<u>Employee Use Of Technology</u>
<u>4040-E(1)</u>	<u>Employee Use Of Technology</u>
<u>4112.9</u>	<u>Employee Notifications</u>
<u>4112.9-E(1)</u>	<u>Employee Notifications</u>
<u>4117.7</u>	<u>Employment Status Reports</u>
<u>4118</u>	<u>Dismissal/Suspension/Disciplinary Action</u>
<u>4119.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4119.21</u>	<u>Professional Standards</u>
<u>4119.21-E(1)</u>	<u>Professional Standards</u>
<u>4119.22</u>	<u>Dress And Grooming</u>
<u>4131</u>	<u>Staff Development</u>
<u>4144</u>	<u>Complaints</u>
<u>4212.9</u>	<u>Employee Notifications</u>
<u>4212.9-E(1)</u>	<u>Employee Notifications</u>
<u>4218.1</u>	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
<u>4219.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4219.21</u>	<u>Professional Standards</u>
<u>4219.21-E(1)</u>	<u>Professional Standards</u>
<u>4219.22</u>	<u>Dress And Grooming</u>
<u>4231</u>	<u>Staff Development</u>
<u>4244</u>	<u>Complaints</u>

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4300</u>	<u>Administrative And Supervisory Personnel</u>
<u>4312.9</u>	<u>Employee Notifications</u>
<u>4312.9-E(1)</u>	<u>Employee Notifications</u>
<u>4317.7</u>	<u>Employment Status Reports</u>
<u>4319.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.21</u>	<u>Professional Standards</u>
<u>4319.21-E(1)</u>	<u>Professional Standards</u>
<u>4319.22</u>	<u>Dress And Grooming</u>
<u>4344</u>	<u>Complaints</u>
<u>5145.7</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>5145.71</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>5145.71-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>5146</u>	<u>Married/Pregnant/Parenting Students</u>

The District does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

The following administrative regulation shall apply to all allegations of ~~sexual~~ sex discrimination and sex-based harassment ~~involving~~ by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by ~~or against~~ a student.

Definitions

Sexual discrimination includes treating an employee differently based on the employee's sex, which includes differential treatment based on sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or association with a person or group with one or more of these actual or perceived characteristics. Sex discrimination, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when prohibited conduct is so severe, persistent, or pervasive that it creates an intimidating, threatening, hostile, or offensive work environment; has the effect of substantially or unreasonably interfering with an employee's term or condition of employment; or otherwise adversely affects an employee's employment opportunities.

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment of the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11)

1. Quid pro quo harassment: A district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service in the district's education program or activity conditioning the provision of district aid, benefit, or service on a student's participation in unwelcome sexual conduct
2. Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of district policy if it has a continuing effect on a student's ability to participate in or benefit from district educational programs or activities.

3. Sexual assault, dating violence, domestic violence, or stalking, as defined in 34 CFR 106.2

SEX DISCRIMINATION AND SEX-BASED HARASSMENT ~~SEXUAL HARASSMENT~~
(continued)

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature, regardless of whether or not the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 5 CCR 4916)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual.
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment.
4. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the District.

(cf. 4030 Nondiscrimination in Employment)

~~For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, *sexual harassment* is defined as any of the following forms of conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)~~

- ~~1. A District employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct~~
- ~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity~~
- ~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

(cf. 4119.12/4219.12/4319.12 Title IX Sexual Harassment Complaints)

Examples of ~~Sexual~~ Sex Discrimination and Sex-Based Harassment

SEX DISCRIMINATION AND SEX-BASED HARASSMENT ~~SEXUAL HARASSMENT~~
(continued)

Examples of actions that might constitute ~~sexual~~ sex-based harassment under state and/or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a non-employee include, but are not limited to:

1. Unwelcome verbal conduct such as ~~sexual~~ sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for ~~sexual~~ sex-based activity; ~~sexual~~ sex-based jokes or stories; unwelcome ~~sexual~~ sex-based slurs, epithets, threats, innuendoes; ~~sexually~~; sex-based degrading descriptions; ~~;~~ or the spreading of ~~sexual~~ sex-based rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; or messaging; or displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; or cornering, blocking, leaning over, or impeding normal movements

Title IX Coordinator/Compliance Officer

The District designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX ~~of the Education Amendments of 1972~~ in accordance with AR Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~ Sex Discrimination and Sex-Based Harassment Complaint Procedures, ~~as well as to~~ and oversee, ~~investigate, and resolve~~ ~~sexual harassment~~ the District's response to discrimination complaints processed under AR Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

Assistant Superintendent of Human Resources
350 W. Brookside Ave, Beaumont, CA 92223
(951) 845-1631

Training

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sex-based harassment in accordance with state and federal law.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one-hour, of classroom or other effective interactive training and education regarding sexual harassment as specified in Government Code 12950.1. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

SEX DISCRIMINATION AND SEX-BASED HARASSMENT ~~SEXUAL HARASSMENT~~
(continued)

A *supervisory employee* is any employee with the authority, in the interest of the District, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, the responsibility to direct them, adjust their grievances, or to effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

(cf. 4300—Administrative and Supervisory Personnel)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The District's sexual harassment training and education program shall include but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention and correction of sexual harassment.
2. The types of conduct that constitute sexual harassment.
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the District's obligation to conduct an effective workplace investigation of a harassment complaint

SEX DISCRIMINATION AND SEX-BASED HARASSMENT ~~SEXUAL HARASSMENT~~
(continued)

10. What to do if the supervisor is personally accused of harassment
11. The essential elements of the District's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a copy of the District's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received
12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

Additionally, the Superintendent or designee shall ensure that all employees receive annual training related to their duties under Title IX in accordance with 34 CFR 106.8, and that a newly hired employee receive training promptly upon hire or change of position that alters the employee's duties under Title IX. (34 CFR 106.8)

The District's Title IX sex discrimination and sex-based harassment training shall include: (34 CFR 106.8)

1. The District's obligation to address sex-based discrimination, including sex-based harassment, in its education program or activity
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment
3. The notification and information requirements specified in 34 CFR 106.40 and 106.44

The District's Title IX sex-based harassment training and education program shall also include additional training required of supervisors; investigators, decision-makers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and Title IX Coordinators and designees. (34 CFR 106.8)

SEX DISCRIMINATION AND SEX-BASED HARASSMENT ~~SEXUAL HARASSMENT~~
(continued)

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, ~~the type of training, and the name of the training provider.~~ (2 CCR 11024) type of training, and name of the training provider. (2 CCR 11024)

Notifications

~~The Superintendent or designee shall notify employees that the District does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the District may be referred to the District's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)~~

~~(cf. 4112.9/4212.9/4312.9 – Employee Notifications)~~

~~The District shall notify employees, bargaining units, and applicants for employment of the name or title, office address, and telephone number of the district's Title IX Coordinator. (34 CFR 106.8)~~

~~A copy of the Board policy and this administrative regulation shall:~~

Additionally, the Superintendent or designee shall retain for at least seven years the materials used to provide training as specified in 34 CFR 106.8, and to make these materials available, upon request, to members of the public. (34 CFR 106.8)

Notifications

To prevent unlawful sex discrimination and sex-based harassment, including retaliation, in district programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 4030 – Nondiscrimination in Employment.

In addition to the measures to prevent discrimination as specified in Administrative Regulation 4030 – Nondiscrimination in Employment, the Superintendent or designee shall ensure that a copy of the Board policy and this administrative regulation:

1. Be displayed in a prominent location in the main administrative building, District office, or other area of the school where notices of District rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every District employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

3. Appear in any school or District publication that sets forth the school's or District's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
4. ~~Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site (34 CFR 106.8)~~
5. ~~Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations (34 CFR 106.8)~~

All employees shall receive a copy of an information sheets prepared by the California Civil Rights Department of Fair Employment and Housing (~~DFEH~~CRD) or a copy of District information sheets that contain, at a minimum, components on: (Government Code 12950)

1. The illegality of ~~sexual~~sex-based harassment
2. The definition of ~~sexual~~sex-based harassment under applicable state and federal law
3. A description of ~~sexual~~sex-based harassment, with examples
4. The District's complaint process available to the employee
5. The legal remedies and complaint process available through ~~DFEH~~CRD and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact ~~DFEH~~CRD and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by ~~DFEH~~CRD and the EEOC

~~In addition~~Additionally, the District shall post, in a prominent and accessible location, ~~DFEH's~~the CRD poster on discrimination in employment and the illegality of ~~sexual~~sex-based harassment, and the ~~DFEH~~CRD poster regarding transgender rights. (Government Code 12950)

Complaint Procedures

All complaints and allegations of ~~sexual~~sex discrimination and sex-based harassment by and against employees shall be investigated and resolved ~~in accordance with law and District procedures.~~ ~~The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint.~~ ~~If the complaint or allegation is against the District Superintendent, the complaint may be reported directly to the President of the Board of Trustees;~~

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

~~the President shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 – Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 – Nondiscrimination in Employment.~~ as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

If ~~sexual~~ sex discrimination or sex-based harassment is found following an investigation, the Title IX Coordinator, President of the Board of Trustees, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the ~~sexual~~ sex discrimination or sex-based harassment, prevent recurrence, and address any continuing effects.

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.

<u>State</u>	<u>Description</u>
<u>2 CCR 11006-11086</u>	<u>Discrimination in employment</u>
<u>2 CCR 11009</u>	<u>Employment discrimination</u>
<u>2 CCR 11021</u>	<u>Discrimination in employment - retaliation</u>
<u>2 CCR 11023</u>	<u>Harassment and discrimination prevention and correction</u>
<u>2 CCR 11024</u>	<u>Required training and education on harassment based on sex, gender identity and expression, and sexual orientation</u>
<u>2 CCR 11034</u>	<u>Terms, conditions, and privileges of employment</u>
<u>5 CCR 4900-4965</u>	<u>Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance</u>
<u>Ed. Code 200-262.4</u>	<u>Prohibition of discrimination</u>
<u>Ed. Code 220.1</u>	<u>Prohibition of retaliation related to educational equity</u>
<u>Ed. Code 220.3</u>	<u>Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression</u>
<u>Ed. Code 220.5</u>	<u>Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression</u>
<u>Gov. Code 12900-12996</u>	<u>Fair Employment and Housing Act</u>
<u>Gov. Code 12940</u>	<u>Unlawful discriminatory employment practices</u>
<u>Gov. Code 12950</u>	<u>Sexual harassment</u>

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

State (continued)
Gov. Code 12950.1
Lab. Code 1101
Lab. Code 1102.1
Lab. Code 1197.5

Description
Sexual harassment training
Political activities of employees
Discrimination: sexual orientation
Wages, hours, and working conditions

Federal
20 USC 1681-1688

Description
Title IX of the Education Amendments of 1972;
discrimination based on sex
Implementation of the Pregnant Workers
Fairness Act
Nondiscrimination on the basis of sex in
education programs or activities
Title VII, Civil Rights Act of 1964, as amended
Pregnant Workers Fairness Act

29 CFR 1636

34 CFR 106.511-106.6182

42 USC 2000e-2000e-17
42 USC 2000gg-2000gg-6

Management Resources

Description

Court Decision

Burlington Industries v. Ellreth (1998) 118 S.Ct.
2257

Court Decision

Department of Health Services v. Superior Court
of California (2003) 31 Cal.4th 1026

Court Decision

Faragher v. City of Boca Raton (1998) 118 S.Ct.
2275

Court Decision

Gebser v. Lago Vista Independent School
District (1998) 118 S.Ct. 1989

Court Decision

Meritor Savings Bank, FSB v. Vinson et al.
(1986) 447 U.S. 57

Court Decision

Oncale v. Sundowner Offshore Serv. Inc. (1998)
118 S.Ct. 998

Federal Register

Nondiscrimination on the Basis of Sex in
Education Programs or Activities Receiving
Federal Financial Assistance, April 29, 2024,
Vol. 89, No. 83, pages 33474-33896
(<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>)

U.S. Equal Employment Opportunity Com.
Publication

Promising Practices for Preventing Harassment,
November 2017

Website

CSBA District and County Office of Education
Legal Services

Website

California Civil Rights Department

Website

California Department of Education
(<https://www.cde.ca.gov/>)

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

Management Resources (continued)

Website

Description

U.S. Department of Education, Office for Civil Rights

Website

U.S. Equal Employment Opportunity Commission

Cross References

Code

Description

0410

Nondiscrimination In District Programs And Activities

0450

Comprehensive Safety Plan

1312.3

Uniform Complaint Procedures

1312.3-E(1)

Uniform Complaint Procedures

1312.3-E(2)

Uniform Complaint Procedures

1313

Civility

3530

Risk Management/Insurance

3600

Consultants

4030

Nondiscrimination In Employment

4033

Lactation Accommodation

4040

Employee Use Of Technology

4040-E(1)

Employee Use Of Technology

4112.9

Employee Notifications

4112.9-E(1)

Employee Notifications

4117.7

Employment Status Reports

4118

Dismissal/Suspension/Disciplinary Action

4119.12

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.12-E(1)

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.21

Professional Standards

4119.21-E(1)

Professional Standards

4119.22

Dress And Grooming

4131

Staff Development

4144

Complaints

4212.9

Employee Notifications

4212.9-E(1)

Employee Notifications

4218.1

Dismissal/Suspension/Disciplinary Action (Merit System)

4219.12

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4219.12-E(1)

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4219.21

Professional Standards

4219.21-E(1)

Professional Standards

SEX DISCRIMINATION AND SEX-BASED HARASSMENT (continued)

Cross References (continued)

<u>Code</u>	<u>Description</u>
<u>4219.22</u>	<u>Dress And Grooming</u>
<u>4231</u>	<u>Staff Development</u>
<u>4244</u>	<u>Complaints</u>
<u>4300</u>	<u>Administrative And Supervisory Personnel</u>
<u>4312.9</u>	<u>Employee Notifications</u>
<u>4312.9-E(1)</u>	<u>Employee Notifications</u>
<u>4317.7</u>	<u>Employment Status Reports</u>
<u>4319.12</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.12-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>4319.21</u>	<u>Professional Standards</u>
<u>4319.21-E(1)</u>	<u>Professional Standards</u>
<u>4319.22</u>	<u>Dress And Grooming</u>
<u>4344</u>	<u>Complaints</u>
<u>5145.7</u>	<u>Sex Discrimination and Sex-Based Harassment</u>
<u>5145.71</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>5145.71-E(1)</u>	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<u>5146</u>	<u>Married/Pregnant/Parenting Students</u>

TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a District employee, while in an education program or activity ~~in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44).~~ was subjected to conduct on or after August 1, 2024, including, but not limited to, conduct that is under the authority of the District, that constitutes sex discrimination, including sex-based harassment. For conduct that occurred prior to this date, the District should utilize its policies in place at the time the alleged sex discrimination, including sex-based harassment, occurred, so long as they are in accordance with the applicable statutes and regulations.

1. ~~_____ A District employee conditioning the provision of a District aid, benefit, or service on a person's participation in unwelcome sexual conduct~~
2. ~~_____ Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity~~
3. ~~_____ Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

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

~~All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4030 – Nondiscrimination in Employment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the District's Title IX Coordinator.~~

~~(cf. 4030 – Nondiscrimination in Employment)~~

~~Because the complainant has a right to pursue a complaint under AR 4030 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4030 are concurrently met while implementing the Title IX procedure.~~

Reporting Allegations/Filing a Formal Complaint

Sex discrimination and sex-based harassment include, but are not limited to, sex-based conduct as specified in Administrative Regulation 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment.

Basic Requirements

When implementing Title IX grievance procedures, the District shall: (34 CFR 106.45)

TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

1. Treat complainants and respondent equitably
2. Ensure that the Title IX Coordinator or designee, investigator, or decision-maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent

The investigator and the decision-maker may be the same person as the Title IX Coordinator or designee.
3. Presume that the respondent is not responsible for the alleged sex discrimination, including sex-based harassment, until a determination is made at the conclusion of the grievance procedures
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures such as evaluation of whether to dismiss or investigate a complaint, investigation, decision, and appeals if any
5. Establish a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay

Additionally, the District shall not disclose personally identifiable information obtained while implementing the Title IX complaint procedures unless the District has obtained prior written consent from a person with the legal right to consent to the disclosure; the information is disclosed to a parent/guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; to take action to address conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, in the District's education program or activity; as required by federal law, regulations, or as a condition to a federal award; as required by state or local law; or to the extent such disclosures are not otherwise in conflict with Title IX. (34 CFR 106.44)

If the respondent is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program or 504 team, to determine how to comply with the requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.

Filing a Complaint

Upon receiving information of an allegation of sex discrimination, including sex-based harassment, the Title IX Coordinator or designee shall notify the individual(s) specified in law of the Title IX grievance procedures, and of the informal resolution process, if available and appropriate.

**TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)**

A complaint is an oral or written request that can objectively be understood by the Title IX Coordinator or designee as a request for the District to investigate and make a determination about alleged sex discrimination, including sex-based harassment. (34 CFR 106.2)

Complaints of sex discrimination and sex-based harassment may only be brought by an employee, or former employee, who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex-based harassment, or the Title IX Coordinator or designee. (34 CFR 106.45)

~~An employee who is~~ If the alleged victim chooses not to bring a complaint, or withdraws any or all of ~~sexual~~ the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator or designee shall consider whether to initiate a complaint. To do so, the Title IX Coordinator or designee shall first consider the following factors: (34 CFR 106.44)

1. The victim's request not to proceed with initiation of a complaint
2. The victim's reasonable safety concerns regarding initiation of complaint
3. The risk that additional acts of sex discrimination, including sex-based harassment ~~may submit~~, would occur if a ~~report~~ complaint is not initiated
4. The severity of ~~sexual~~ the alleged sex discrimination or sex-based harassment to the District's Title IX Coordinator using the contact, including whether the discrimination, if established would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
5. The age and relationship of the parties, including whether the respondent is an employee of the District
6. The scope of the alleged sex discrimination, including information listed in ~~AR 4119.11/4219.11/4319.11 — Sexual Harassment~~ suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals
7. The availability of evidence to assist a decision-maker in determining whether sex discrimination, including sex-based harassment, occurred

TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

8. Whether the employee's direct supervisor or other District administrator, who shall forward could end the report to alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX Coordinator within one day of receiving the report. If the report is against the District Superintendent, the report may be submitted directly to the President of the Board of Trustees. grievance procedures

Upon receiving such a report If, after considering these factors, the Title IX Coordinator or the President of the Board of Trustees shall inform determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant of the right to file a formal complaint and the process for filing a formal complaint.

A formal complaint, with the complainant's physical or digital signature, may be filed with or another person, or that the conduct as alleged prevents the District from ensuring equal access to a District program or activity on the basis of sex, the Title IX Coordinator in person, may initiate a complaint. by mail, by email, or by any other method authorized by the District. (34 CFR 106.30)

Even if the alleged victim chooses not to file a formal If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the District's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notice of the complaint as well as other notices as required by the Title IX regulations at specific points in the complaint process.

The Title IX Coordinator shall also address reasonable concerns about the victim's safety or the safety of others, including providing supportive measures as described in "Supportive Measures" below, and taking other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the District. (34 CFR 106.44)

The Title IX Coordinator or designee, investigator, decision-maker, other person who is responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.458. (34 CFR 106.4544)

Supportive Measures

**TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)**

Upon receipt of a report of Title IX sexual ~~harassment~~, In order to ensure that employees are not barred from reporting information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, the Title IX Coordinator shall ~~promptly contact the complainant to discuss the availability of supportive measures and shall consider~~ monitor the complainant's wishes with respect District for barriers to the reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

Supportive Measures

Upon receipt of a report of Title IX sex discrimination or sex-based harassment, the Title IX Coordinator or designee shall offer and coordinate supportive measures implemented. Supportive measures shall be offered as appropriate, as may vary depending on what the District determines to be reasonably available, and shall not, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and not unreasonably burden the complainant or respondent other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures shall be provided without charging a fee to the complainant or respondent and be designed to protect the safety of the complainant, respondent, and the District's educational environment, and to provide support during any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44. The District shall not impose such measures for punitive or disciplinary reasons. Supportive measures may include, but are not limited to, counseling; extensions of deadlines; and other course- or work-related adjustment; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; campus escort services; modifications of class or work schedules; mutual restrictions on contact; changes in class or work locations; leaves of absence; increased security; and monitoring of certain areas of the campus; and, training and education programs related to sex-based harassment. (34 CFR 106.30, 106.44)

Unless there is an allegation of sex-based harassment or retaliation, the District may provide supportive measures without altering the alleged discriminatory conduct. (34 CFR 106.44)

Upon the conclusion of any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44, the District may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44)

The District shall provide a complainant or respondent for whom supportive measures have been implemented with a timely opportunity to seek, from an impartial employee with authority to modify or reverse the supportive measures, modification or reversal of the District's decision to provide, deny, modify, or terminate such measures, and to seek additional modification or termination of the supportive measures if circumstances materially change. (34 CFR 106.44)

**TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)**

The District shall not disclose information about supportive measures to any person other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless the disclosure is necessary to providing the supportive measures, or restoring or preserving a party's access to the District's education program or activity. (34 CFR 106.44)

Emergency Removal

If a District employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the District may, on an emergency basis, remove the student from the District's education program or activity, provided that the District conducts an individualized safety and risk analysis, determines that removal is justified due to an ~~immediate~~ imminent and serious threat to the ~~physical~~ health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the ~~Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)~~ IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

Dismissal of Complaint

~~The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the District's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the District in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed by the District, or sufficient circumstances prevent the District from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)~~

~~Upon dismissal, the Title IX Coordinator shall promptly, send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)~~

~~If a complaint is dismissed, the conduct may still be addressed pursuant to AR 4030—Nondiscrimination in Employment as applicable.~~

TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

~~If a complaint is dismissed on the grounds that the alleged conduct does not constitute sexual harassment as defined in 34 CFR 106.30, the conduct may still be addressed pursuant to AR 4030 – Nondiscrimination in Employment as applicable.~~

The Title IX Coordinator or designee may dismiss a complaint if: (34 CFR 106.45)

1. The District is unable to identify the respondent after taking reasonable steps to do so
2. The respondent is not participating in the District’s education program or activity and is not employed by the District
3. The District determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX

Before dismissing the complaint, the Title IX Coordinator shall make reasonable efforts to clarify the allegations with the complainant.

4. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, including sex-based harassment, under Title IX, even if proven

The Title IX Coordinator shall determine whether to dismiss or investigate any complaint of sex discrimination, including sex-based harassment, within 10 days, unless such timeline is extended in accordance with this administrative regulation.

Upon dismissal, the Title IX Coordinator shall promptly notify the complainant of the dismissal and the reasons for the dismissal. Additionally, if the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator shall provide such notification to the respondent, which shall occur simultaneously to both parties if the notification is in writing. The Title IX Coordinator shall also inform the complainant, and the respondent if the dismissal occurs after the respondent has been notified of the allegations, of their right to appeal.

Dismissals may be appealed on the following bases: (34 CFR 106.45)

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made

**TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)**

3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome

If the dismissal is appealed, the District shall: (34 CFR 106.45)

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent
2. Implement appeal procedures equally for the parties
3. Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
4. Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
6. Notify the parties of the result of the appeal and the rationale for the result

If a complaint is dismissed, the Title IX Coordinator or designee shall offer supportive measures as described above in “Supportive Measures” to the complainant. Additionally, the respondent shall be offered supportive measures if the complaint was dismissed because the complainant voluntarily withdrew any or all of the allegations in the complaint and the District determined that without the withdrawn allegations the conduct, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX, or if the complaint was dismissed because the District determined, after taking reasonable efforts to clarify the allegations of the complaint, that the alleged conduct would not constitute sex discrimination, including sex-based harassment, even if proven. The Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the District’s education program or activity. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to Administrative Regulation 4030 - Nondiscrimination in Employment as applicable.

**TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)**

Informal Resolution Process

~~When a formal complaint of sexual harassment is filed, the District may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The District shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)~~

~~The District may facilitate an informal resolution process provided that the District: (34 CFR 106.45)~~

At any time prior to determining whether sex discrimination, including sex-based harassment, occurred under the complaint procedures specified in 34 CFR 106.45, the District may offer, if it is determined to be appropriate upon receiving information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, to the complainant and respondent. However, the District shall not offer an informal resolution process if the complaint alleges that an employee engaged in sex-based harassment of an elementary or secondary school student or that such process would conflict with federal, state, or local law. (34 CFR 106.44)

The District shall not require or pressure a party to participate in the informal resolution process, or to waive the right to an investigation and determination of a complaint as a condition of employment or continuing employment, or exercise of any other right. The District may decline to offer an informal resolution process including, but not limited to, when the District determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44)

The District may facilitate an informal resolution process provided that the District, prior to initiating such process: (34 CFR 106.44)

1. Provides the parties with written notice disclosing the allegations; the requirements of the informal resolution process; the right to withdraw from the informal process and resume the formal complaint process, and any consequences resulting; the inability to initiate or resume complaint procedures arising from participating in the same allegations once the informal resolution process is concluded; the potential terms that may be requested or offered in an informal resolution agreement, including that records the agreement would only be binding on the parties; and the information that the District will be maintained or maintain and whether and how the District that could be shared disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed
2. Obtains the parties' voluntary, written consent to the informal resolution process

TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

The Title IX Coordinator or designee shall ensure that the facilitator of the informal resolution process is not the same person as the investigator or decision-maker of any ongoing or newly initiated complaint process specific in 34 CFR 106.45, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and received training in accordance with 34 CFR 106.8. (34 CFR 106.44)

If the District facilitates an informal resolution process, the Title IX Coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the District's education program or activity. (34 CFR 106.45)

Written Notice of Allegations

If the District initiates a formal ~~complaint is filed~~ Title IX investigation, the Title IX Coordinator or designee shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The District's complaint process, including any informal resolution process
2. ~~The allegations potentially constituting sexual harassment with sufficient details known~~ Sufficient information, available at the time, ~~including~~ to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident ~~(s) if known,~~ the conduct allegedly constituting ~~sexual-sex~~ discrimination, including sex-based harassment, and the date ~~(s)~~ and location ~~(s)~~ of the alleged incident ~~if known.~~

Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that retaliation is prohibited

- ~~34.~~ A statement that the respondent is ~~presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process~~
4. ~~The opportunity for the parties~~ are entitled to have an advisor of their choice who may be, ~~but is not required~~ equal opportunity to be, an attorney, and the ability to inspect and review access the relevant and not otherwise impermissible evidence

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

5. ~~The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process~~ an accurate description of such evidence, as specified

The above notice ~~shall~~ may also include the name of the investigator, facilitator of an informal process, and decision-maker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator or designee.

Consolidation of Complaints

The District may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent; by more than one complainant against one or more respondents; or by one party against another party, when the allegations of sex discrimination, including sex-based harassment, arise out of the same facts or circumstances. (34 CFR 106.45)

Investigation Procedures

The District shall provide for adequate, reliable, and impartial investigation of complaints. (34 CFR 106.45)

During the investigation process, the District's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present fact witnesses, ~~including fact and expert witnesses~~, and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible
2. Review all evidence gathered through the investigation and determine which evidence is relevant and which evidence is impermissible regardless of relevance
3. Provide each party with an equal opportunity to access evidence that is relevant, and not otherwise impermissible, to the allegations of sex discrimination, including sex-based harassment, by:
 - a. Providing an equal opportunity to access either the relevant and not otherwise impermissible evidence or an accurate description of such evidence

If an accurate description is provided, the District shall, upon request of any party, provide the parties with an equal opportunity to access the relevant and permissible evidence.

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

- b. Providing a reasonable opportunity to respond to the evidence or to the accurate description of the evidence
 - c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures
- ~~24. Not~~ Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of either party to discuss the allegations under investigation or to gather the parties to obtain and present relevant evidence.
 - ~~3. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney~~
 - ~~4. Not limit the choice~~ by speaking to witnesses; consulting with family members, confidential resources, or presence of an advisor advisors; or otherwise preparing for either the complainant or respondent or participating in any meeting or the grievance proceeding, although the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties procedures
 - ~~5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate~~
 - ~~6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report~~
 - ~~7~~ 5. Objectively evaluate all evidence that is relevant evidence and not otherwise impermissible, including both inculpatory and exculpatory evidence, and determine including that credibility in a manner that is determinations will not be based on a person's status as a complainant, respondent, or witness
 - ~~8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response~~

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

6. Exclude as impermissible the following types of evidence, and questions seeking that evidence:

- a. Evidence that is protected under a privilege recognized by state or federal law or evidence that is provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege
- b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the District obtains that party's or witness's voluntary, written consent for use in its grievance procedures
- c. ~~Questions and~~ Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct alleged by the complainant or if the questions and is evidence concern about specific incidents of the complainant's prior sexual behavior conduct with respect to the respondent and are that is offered to prove consent. to the alleged sex-based harassment.

The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The District shall ensure that the decision-maker is able to question parties and witnesses adequately to assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. (34 CFR 106.45)

Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The investigator shall complete the investigation within 150 days after the Title IX Coordinator determines to proceed with an investigation, unless such timeline is extended in accordance with this administrative regulation.

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

Written Decision

The Superintendent shall designate an employee as the decision-maker to determine responsibility for the alleged conduct, who shall ~~not~~may be the Title IX Coordinator or a ~~person involved in~~designee or the investigation ~~investigator so long as there is no conflict of the matter~~interest or bias. (34 CFR 106.45)

~~After~~Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the District shall: (34 CFR 106.45)

1. Use the ~~investigative report~~preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has ~~been sent to~~occurred
2. Notify the parties but before reaching a ~~in writing of the~~ determination regarding responsibility, the ~~decision maker~~of whether sex discrimination, including sex-based harassment, occurred

The notification shall afford each party the opportunityinclude the rationale for such determination and the procedures and permissible bases for the complainant and respondent to submitappeal, if applicable.

The written relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional limited follow up questions from each party

The ~~decision maker~~decision shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)be issued within 150 days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

Appeal of the Decision

The ~~written decision shall be issued within 60 calendar days of the receipt of the complaint.~~

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

In making this determination, the decision maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The ~~written decision shall include the following:~~ (34 CFR 106.45)

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

1. ~~Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30~~
2. ~~A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence~~
3. ~~Findings of fact supporting the determination~~
4. ~~Conclusions regarding the application of the District's code of conduct or policies to the facts~~
5. ~~A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's educational program or activity will be provided by the District to the complainant~~
6. ~~The District's procedures and permissible bases for the complainant and respondent to appeal~~

Appeals

~~Either party may appeal the District's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the District shall: (34 CFR 106.45)~~

1. ~~Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties~~
2. ~~Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator~~
3. ~~Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome~~
4. ~~Issue a written decision describing the result of the appeal and the rationale for the result~~
5. ~~Provide the written decision simultaneously to both parties~~

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

~~An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.~~

~~A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.~~

Either party may appeal the District's decision of a complaint or any allegation in the complaint. (34 CFR 106.45)

When conducting an appeal, the District shall follow the appeal process as specified in Administrative Regulation 4030 – Nondiscrimination in Employment.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal anti-discrimination laws, if applicable.

RemediesExtension of Timelines

Any timelines specified in this administrative regulation may be extended by the District for good cause, with written notice to the parties. The written notice shall specify the reasons for the extension. (34 CFR 106.45)

~~When a determination of responsibility for sexual harassment has been made against the respondent, the District shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or non-punitive and need not avoid burdening the respondent.~~

When there is a determination that sex discrimination, including sex-based harassment, has occurred, the Title IX Coordinator shall coordinate the provision and implementation of remedies to the complainant and other persons the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination, including sex-based harassment; coordinate the imposition of any disciplinary sanctions on a respondent as described in "Disciplinary Actions" below, including notification to the complainant of any such disciplinary sanctions; and take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the District's education program or activity. (34 CFR 106.45)

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

Disciplinary Actions

The District shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44, 106.45)

When an employee is found to have committed ~~sexual~~ sex discrimination, including sex-based harassment, or retaliation, the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 – Employment Status Report)
(cf. 4118 – Dismissal/Suspension/Disciplinary Action)
(cf. 4119.11/4219.11/4319.11 – Sexual Harassment)
(cf. 4218 – Dismissal/Suspension/Disciplinary Action)

Record-Keeping

The Superintendent or designee shall ~~maintain, for a period of seven years:~~ (34 CFR 106.45)

- ~~1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.~~
- ~~2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the District's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.~~
- ~~3. All materials used to train the Title IX Coordinator, investigator(s), decision maker(s), and any person who facilitates an informal resolution process. The District shall make such training materials publicly available on its web site, or if the District does not maintain a web site, available upon request by members of the public.~~

(cf. 1113 – District and School Web Sites)
(cf. 3580 – District Records)

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

The District shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the District's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

Record-Keeping

The Superintendent or designee shall maintain, for at least a period of seven years: (34 CFR 106.45)

1. For each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process or formal investigation procedures
2. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, records documenting the actions taken to fulfill the District's obligations as specified in 34 CFR 106.44, including supportive measures offered and implemented
3. All materials used to train District employees; the Title IX Coordinator and designee(s); investigator(s), decision-maker(s), and other person(s) who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process

The District shall make such training materials publicly available on its web site, or if the District does not maintain a web site, available upon request by members of the public.

For complaints containing allegations of childhood sexual assault, the Superintendent or designee shall also indefinitely maintain the following: (Code of Civil Procedure 340.1)

1. A record of the allegation(s)
2. A record of the investigation procedures followed
3. A record of the written determination
4. A record of the corrective action implemented, if any
5. A record of any appeals and the outcome of the same

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

6. All training materials addressing the prohibition and investigation of childhood sexual assault

Legal Reference: *(see next page)*

Legal Reference:

EDUCATION CODE

~~200-262.4 Prohibition of discrimination on the basis of sex~~

~~48900 Grounds for suspension or expulsion~~

~~48900.2 Additional grounds for suspension or expulsion; sexual harassment~~

~~48985 Notices, report, statements and records in primary language~~

CIVIL CODE

~~51.9 Liability for sexual harassment; business, service and professional relationships~~

~~1714.1 Liability of parents/guardians for willful misconduct of minor~~

GOVERNMENT CODE

~~12950.1 Sexual harassment training~~

CODE OF REGULATIONS, TITLE 5

~~4600-4670 Uniform complaint procedures~~

~~4900-4965 Nondiscrimination in elementary and secondary education programs~~

UNITED STATES CODE, TITLE 20

~~1092 Definition of sexual assault~~

~~1221 Application of laws~~

~~1232g Family Educational Rights and Privacy Act~~

~~1681-1688 Title IX of the Education Amendments of 1972~~

UNITED STATES CODE, TITLE 34

~~12291 Definition of dating violence, domestic violence, and stalking~~

UNITED STATES CODE, TITLE 42

~~1983 Civil action for deprivation of rights~~

~~2000d-2000d-7 Title VI, Civil Rights Act of 1964~~

~~2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended~~

CODE OF FEDERAL REGULATIONS, TITLE 34

~~99.1-99.67 Family Educational Rights and Privacy~~

~~106.1-106.82 Nondiscrimination on the basis of sex in education programs~~

COURT DECISIONS

~~Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567~~

~~Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130~~

~~Reese v. Jefferson School District, (2000, 9th Cir.) 208 F.3d 736~~

~~Davis v. Monroe County Board of Education, (1999) 526 U.S. 629~~

~~Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274~~

~~Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473~~

~~Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447~~

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

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

5 CCR 4600-4670

5 CCR 4900-4965

Civ. Code 1714.1

Civ. Code 51.9

Ed. Code 200-262.4270

Ed. Code 48900

Ed. Code 48900.2

Ed. Code 48985

Gov. Code 12950.1

Federal

20 USC 1092

20 USC 1221

20 USC 1681-1688

34 CFR 106.1-106.82

34 CFR 99.1-99.67

34 USC 12291

42 USC 1983

42 USC 2000d-2000d-7

42 USC 2000e-2000e-17

Management Resources

Court Decision

Court Decision

Description

Uniform complaint procedures

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Liability of parent or guardian for act of willful misconduct by a minor

Liability for sexual harassment; business, service and professional relationships

Prohibition of discrimination

Grounds for suspension or expulsion

Additional grounds for suspension or expulsion; sexual harassment

Notices to parents in language other than English

Sexual harassment training

Description

Definition of sexual assault

Application of laws

Title IX of the Education Amendments of 1972; discrimination based on sex

Nondiscrimination on the basis of sex in education programs

Family Educational Rights and Privacy

Definition of dating violence, domestic violence, and stalking

Civil action for deprivation of rights

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended

Description

Reese v. Jefferson School District (20012000, 9th Cir.) 208 F.3d 736

Davis v. Monroe County Board of Education (1999) 526 U.S. 629

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

Management Resources (continued)

Court Decision

Description

Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274

Court Decision

Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473

Court Decision

Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447

Court Decision

Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567

Court Decision

Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130

Federal Register

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896 (<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>)

U.S. Department of Justice, Federal Bureau of Investigation Publication

National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)

Website

CSBA District and County Office of Education Legal Services

Website

CSBA

Website

California Department of Education

Website

U.S. Department of Education, Office for Civil Rights

Website

U.S. Department of Justice, Federal Bureau of Investigation (<https://www.justice.gov/doj/federal-bureau-investigation>)

Cross References

Code

1313

3580

3600

4030

4117.7

4118

4119.11

Description

Civility

District Records

Consultants

Nondiscrimination In Employment

Employment Status Reports

Dismissal/Suspension/Disciplinary Action

Sex Discrimination and Sex-Based Harassment

AR 4119.12(v)
4219.12
4319.12

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES (continued)

Cross References (continued)

Code

4131

4218

4219.11

4317.7

4319.11

Description

Staff Development

Dismissal/Suspension/Disciplinary Action

Sex Discrimination and Sex-Based Harassment

Employment Status Reports

Sex Discrimination and Sex-Based Harassment

Regulation

approved: ~~November 10, 2020~~ **First Reading: November 12, 2024**

BEAUMONT UNIFIED SCHOOL DISTRICT

Beaumont, California

All Personnel

E 4119.12(a)
4219.12
4319.12

TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT COMPLAINT PROCEDURES

NOTICE OF TITLE IX ~~SEXUAL HARASSMENT POLICY~~ NONDISCRIMINATION

The Code of Federal Regulations, Title 34, Section 106.8 requires the District to issue the following notification to employees, job applicants, and employee organizations:

The District does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The District also prohibits retaliation against any employee for filing a complaint or exercising any right granted under Title IX.

~~Title IX requires a school~~ The district ~~District is required, as specified in Title IX,~~ to take ~~immediate~~ prompt and ~~appropriate~~ equitable action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the District's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The District has designated and authorized the following employee(s) as the District's Title IX Coordinator, to address concerns or inquiries regarding discrimination on the basis of sex, including ~~sexual harassment, sexual assault, dating violence, domestic violence, and stalking~~ sex-based harassment:

Assistant Superintendent of Human Resources
350 W. Brookside Ave, Beaumont, CA 92223
(951) 845-1631

Any individual may report sex discrimination, including ~~sexual~~ sex-based harassment, to the Title IX Coordinator, any other school employee, or if the report is against the District Superintendent, the complaint may be reported directly to the President of the Board of Trustees at any time, including during non-business hours, by mail, phone, or email. During District business hours, reports may also be made in person. Upon receiving an allegation of ~~sexual~~ sex discrimination, including sex-based harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable District complaint procedure.

To view an electronic copy of the District's policies and administrative regulations on ~~sexual~~ sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see ~~BP/AR~~ Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 - ~~Sexual~~ Sex Discrimination and Sex-Based Harassment, and ~~AR~~ Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~ Sex Discrimination and Sex-Based Harassment Complaint Procedures on the District's web site at: www.beaumontusd.us

**TITLE IX ~~SEXUAL~~ SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)**

To inspect or obtain a copy of the District's ~~sexual~~ sex discrimination and sex-based harassment policies and administrative regulations, please contact:

Beaumont Unified School District
Human Resources
350 W. Brookside Ave.
Beaumont, CA 92223
(951) 845-1631

Material used to train employees; the Title IX Coordinator; investigator(s), decision-maker(s), and other person(s) who are responsible for implementing the District's grievance procedures or have the authority to modify or terminate supportive measures; and any person(s) who facilitates an informal resolution process, are available at the District office upon request.

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

5 CCR 4600-4670
5 CCR 4900-4965

Civ. Code 1714.1

Civ. Code 51.9

Ed. Code 200-262.4270
Ed. Code 48900
Ed. Code 48900.2

Ed. Code 48985

Gov. Code 12950.1

Federal

20 USC 1092
20 USC 1221
20 USC 1681-1688

Description

Uniform complaint procedures
Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Liability of parent or guardian for act of willful misconduct by a minor
Liability for sexual harassment; business, service and professional relationships
Prohibition of discrimination
Grounds for suspension or expulsion
Additional grounds for suspension or expulsion; sexual harassment
Notices to parents in language other than English
Sexual harassment training

Description

Definition of sexual assault
Application of laws
Title IX of the Education Amendments of 1972; discrimination based on sex

E 4119.12(c)
4219.12
4319.12

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)

Federal (continued)

34 CFR 106.1-106.82

34 CFR 99.1-99.67

34 USC 12291

42 USC 1983

42 USC 2000d-2000d-7

42 USC 2000e-2000e-17

Management Resources

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Federal Register

U.S. Department of Justice, Federal Bureau of Investigation Publication

Website

Website

Website

Website

Description

Nondiscrimination on the basis of sex in education programs

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Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447

Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896 (<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>)

National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)

CSBA District and County Office of Education Legal Services

CSBA

California Department of Education

U.S. Department of Education, Office for Civil Rights

E 4119.12(d)
4219.12
4319.12

TITLE IX SEX DISCRIMINATION AND SEX-BASED HARASSMENT
COMPLAINT PROCEDURES (continued)

Management Resources (continued)

Website

Description

U.S. Department of Justice, Federal Bureau of Investigation
(<https://www.justice.gov/doj/federal-bureau-investigation>)

Cross References

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Sex Discrimination and Sex-Based Harassment

Employment Status Reports

Sex Discrimination and Sex-Based Harassment

Exhibit

version: ~~November 10, 2020~~ **First Reading: November 12, 2024**

BEAUMONT UNIFIED SCHOOL DISTRICT

Beaumont, California

All Personnel

BP 4119.22(a)

4219.22

DRESS AND GROOMING

4319.22

The Board of Trustees believes that appropriate dress and grooming by District employees contribute to a productive learning environment and model positive behavior. During school hours and at school activities, employees shall maintain professional standards of dress and grooming that demonstrate their high regard for education, present an image consistent with their job responsibilities and assignment, and not endanger the health or safety of employees or students. All employees shall be held to the same standards unless their assignment provides for modified dress as approved by their supervisor.

(cf. 0415 - Equity)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

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

(cf. 5132 - Dress and Grooming)

The District shall allow employees to appear and dress in a manner consistent with their gender identity or gender expression. (Government Code 12949)

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

(cf. 4030 - Nondiscrimination in Employment)

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

The District shall not discriminate against employees based on hair texture and protective hairstyles, including, but not limited to, braids, locks, and twists. (Government Code 12926)

The District shall not dismiss an employee, discriminate against an employee in compensation or in terms, conditions, or privileges of employment, or refuse to hire a job applicant on the basis of religious dress or grooming practices. (Government Code 12926, 12940)

This policy shall be presented to employees upon employment, through the employee handbook or other appropriate means, and may be periodically reviewed with all employees as necessary.

~~The Board encourages staff during school hours to wear clothing that demonstrates their high regard for education and presents an image consistent with their job responsibilities. Clothes that may be appropriate for one setting, such as physical education, may not be appropriate for classroom teachers. In the same way, clothing that is worn by maintenance or custodial staff, would not be appropriate for office staff. As indicated in Beaumont Unified School District's Strategic Plan, the District is dedicated to treating all individuals with dignity and respect. Appropriate dress is one visible reflection of this respect.~~

Legal Reference: (see next page)

DRESS AND GROOMING (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

3543.2 Scope of representation

12926 Definitions

12940 Unfair employment practices

12949 Dress standards, consistency with gender identity

COURT DECISIONS

San Mateo City School District v. PERB (1983) 33 Cal. 3d 850

Domico v. Rapides Parish School Board (5th Cir. 1982) 675 F.2d 100

East Hartford Education Assn. v. Board of Education (2d Cir. 1977) 562 F. 2d 856

Finot v. Pasadena Board of Education (1967) 250 Cal.App.2d 189

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Santa Ana Unified School District (1998) 22 PERC P29, 136

Inglewood Unified School District (1985) 10 PERC P17, 000

Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

Transgender Rights in the Workplace

WEB SITES

Public Employment Relations Board: <http://www.perb.ca.gov>

PROFESSIONAL LEAVES

The Board of Trustees recognizes that a broad range of experiences can strengthen an employee's ability to meet the educational needs of the District's students.

The Board may grant a professional leave of absence for up to one year to certificated employees for the purpose of permitting study or travel which will benefit the schools and students of the District. No more than one such leave of absence may be granted to an employee in a seven-year period. (Education Code 44966, 44967)

(cf. 4131 - Staff Development)

(cf. 4161/4261/4361 - Leaves)

To be eligible for a professional leave of absence for these purposes, an employee must have served in the District for at least seven consecutive years preceding the granting of the leave. For this purpose, any prior professional leave taken by an employee shall be deemed a break in the employee's service. No other type of leave authorized by the Board, and no service by the employee for one year or less under a national recognized fellowship or foundation approved by the State Board of Education for research, teaching, or lecturing, shall be deemed a break in the employee's service. (Education Code 44967)

Rather than granting a professional leave for a continuous one-year period, the Board may require that the leave be taken in separate six-month periods or separate quarters, provided that the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for a subsequent leave of absence. (Education Code 44966)

As a condition of being granted professional leave, the employee shall agree in writing to render service in the District following his/her return for a period equal to twice the period of the leave. (Education Code 44969)

The Board and employee may agree in writing to have the employee perform services for the District during the professional leave. (Education Code 44968)

Unless the employee agrees in writing with the Board not to receive compensation during the leave, the employee shall receive such compensation during the leave as the Board and employee agree upon in writing, which shall not be less than the difference between the employee's salary and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. In lieu of such a difference, the Board may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 44968, 44968.5)

Compensation during the leave shall be paid in the manner authorized by Education Code 44969 and 44970.

PROFESSIONAL LEAVES (continued)

At the end of the professional leave, the employee shall be reinstated in the position he/she held when the leave was granted, unless otherwise agreed upon by the employee. (Education Code 44973)

Legal Reference:

EDUCATION CODE

44966-44976 Leaves of absence for study or travel

PROFESSIONAL LEAVES

The Board of Trustees recognizes that a broad range of experiences can strengthen an employee's ability to meet the District's needs.

The Board may grant a professional leave of absence for up to one year to classified employees for the purpose of permitting study or retraining the employee to meet changing conditions within the District. No more than one such leave of absence may be granted to an employee in a seven-year period for purposes of study or three-year period for purposes of retraining. (Education Code 45381, 45382)

(cf. 4161/4261/4361 - Leaves)
(cf. 4231 - Staff Development)

To be eligible for a leave for study purposes, the employee must have served in the District for at least seven consecutive years preceding the granting of the leave. If the leave is for purposes of retraining, the employee must have served in the District for at least three consecutive years preceding the granting of the leave. Any professional leave of absence granted by the Board shall not be deemed a break in service. However, it will not be included as service in computing service for the granting of any subsequent professional leave. (Education Code 45382)

Rather than granting a professional leave for a continuous one-year period, the Board may require that the leave be taken in separate six-month periods or in any other appropriate periods, provided that the total leave is completed within three years. Any period of service by the employee between the separate periods of leave shall comprise a part of the service required for qualifying for a subsequent leave of absence. (Education Code 45381)

The Board and employee may agree in writing to have the employee perform services for the District during the professional leave. (Education Code 45383)

The employee shall receive such compensation during the leave as the Board and employee agree upon in writing, which shall not be less than the difference between the employee's salary and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. In lieu of such a difference, the Board may pay one-half of the salary of the employee or any additional amount up to and including the full salary of the employee. (Education Code 45383)

Compensation during the leave shall be paid in the manner authorized by Education Code 45384.

The Board may grant reimbursement of the costs, including tuition fees, to any classified employee who satisfactorily completes approved training to improve his/her job knowledge, ability, or skill, as long as the employee is not eligible for reimbursement by another governmental agency, organization, or association. Programs eligible for reimbursement include, but are not limited to, courses of study at approved academic institutions, seminars

PROFESSIONAL LEAVES (continued)

and training institutes conducted by recognized professional associations, conferences, meetings, and other training programs that are designed to upgrade the classified service and encourage the retraining of employees who may otherwise be subject to layoff as the result of technological changes. (Education Code 45387)

Legal Reference:

EDUCATION CODE

45220-45320 Merit system

45380-45387 Leaves of absence for study or retraining, classified personnel