

West Contra Costa USD

Board Policy

Nondiscrimination in Employment

BP 4030
Personnel

The Governing Board is determined to provide district employees and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. The Board prohibits unlawful discrimination against and/or harassment of district employees and from discriminating against or harassing any other district employee or job applicants on the basis of- the person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation.

~~actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, or sexual orientation at any district site and/or activity. The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.~~

~~Any district employee who engages or participates in unlawful discrimination, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.~~

~~Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.~~

The Board also prohibits discrimination against any employee or job applicant in compensation, terms, conditions, and other privileges of employment and the taking of any adverse employment action, including, but not limited to, termination or the denial of employment, promotion, job assignment, or training, against an employee or job applicant based on any of the categories listed above.

Prohibited discrimination on the basis of religious creed includes discrimination based on an employee's or job applicant's religious belief or observance, including his/her religious dress or grooming practices. In accordance with Government Code 12940, prohibited discrimination on the basis of religious creed also includes the district's failure or refusal to use reasonable means to accommodate an employee's or job applicant's religious belief, observance, or practice which conflicts with an employment requirement. However, the district shall not accommodate an employee's religious dress practice or religious grooming practice if it requires segregation of the individual from other employees or the public or if it would result in a violation of this policy or any law prohibiting discrimination.

Prohibited sex discrimination includes discrimination based on an employee's or job applicant's pregnancy, childbirth, breastfeeding, or any related medical condition.

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

The Board also prohibits retaliation against any district employee or job applicant who opposes any discriminatory employment practice by the district or its employee, agent, or representative or who complains, testifies, assists, or in any way participates in the district's complaint procedures pursuant to this policy. No employee or job applicant who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who does report such incidents from retaliation.

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

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

The Board designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment: The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment and discrimination, 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.

Assistant Superintendent, Human Resources
1108 Bissell Avenue
Richmond, CA 94801
(510)231-1167

Other Remedies

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

1. — To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960. (Government Code 12960)
2. — To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier. (42 USC 2000e-5)

Employees wishing to file complaints with the DFEH and EEOC should contact the nondiscrimination coordinator for more information.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful discrimination

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

~~7287.6 Terms, conditions and privileges of employment~~

11019 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state

financial assistance

UNITED STATES CODE, TITLE 20

1681-1688 ~~Discrimination based on sex or blindness, Title IX~~ 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

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, 1972 Education Act Amendments

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

~~Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694~~

Shepard v. Loyola Marymount (2002) 102 CalApp.4th 837

Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

California Law Prohibits Workplace Discrimination and Harassment, December 2014

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

Notice of Non-Discrimination, August 2010

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008

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

~~EQUAL EMPLOYMENT OPPORTUNITY COMMISSION~~

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

1999

~~Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999~~

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

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

~~WEB SITES~~

~~EEOC: <http://www.eeoc.gov>~~

~~OCR: <http://www.ed.gov/offices/OCR>~~

~~DFEH: <http://www.dfeh.ca.gov>~~

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

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

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

Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

adopted: August 20, 2008 Richmond, California

revised: