

Policy 4030: Nondiscrimination In Employment

Status: ADOPTED

Original Adopted Date: 08/05/2019 | **Last Revised Date:** 01/09/2023 | **Last Reviewed Date:** 01/09/2023

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

No District employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, gender, gender identity, gender expression, sex, or sexual orientation or the employee's association with a person or group with one or more of these actual or perceived characteristics.

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 is required to do so in order to comply with federal immigration law. (2 CCR 11028)

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.

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
2. Taking of adverse employment action, such as termination or the denial of employment, promotion, job assignment or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the 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 an employee's gender, gender expression, or gender identity, including transgender status
 - b. Religious creed discrimination based on an employee's religious belief or observance, including the employee's religious dress or grooming practices, or based on the District's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement
 - c. Requiring medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
 - d. Disability discrimination based on the District's failure to make reasonable accommodation for the

known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with any employee, to determine effective reasonable accommodations for the employee, when the employee has requested reasonable accommodation for a known physical or mental disability or medical condition

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 a release of the employee's claim or right to file a claim against the District or a non-disparagement 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.

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 Superintendent or designee shall use all appropriate means to reinforce the District's nondiscrimination policy. The Superintendent or designee shall provide 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.

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

1. Display in a prominent and accessible location at every work site where the District has employees and post electronically in conspicuous locations on computers of employee use, up-to-date California Department of Fair Employment and Housing (DFEH) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950p; 2 CCR 11013, 11023, 11049)
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 website and providing easy access to them through District-supported social media, when available

3. Disseminate the District's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
 - a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to signed and return
 - b. Sending a copy via email with an acknowledgment return form
 - c. Posting a copy on the District intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
 - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
 - e. Any other way that ensure employees receive and understand the policy
4. Provide to employees a hand book which contains information that clearly describes the District's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
5. Provide training regarding the District's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and to who a report of an incident should be made

The District may also provide bystander intervention training to employees, which includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

6. Periodically review the District's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure District compliance with law
7. For any District facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aides, 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.

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 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)

The District designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to coordinate the District's efforts to comply with state and federal nondiscriminating laws and to answer inquiries regarding the District's nondiscrimination policies.

The coordinator may be contacted at:

Assistant Superintendent, Personnel
Hesperia Unified School District
15576 Main Street
Hesperia, CA 92345
(760) 244-4411
