

Policy 4030: Nondiscrimination In Employment

Status: DRAFT

Original Adopted Date: 10/05/2010 | Last Revised Date: 05/18/2021 | Last Reviewed Date: 05/18/2021

The Governing Board 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.

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, marital status, pregnancy, physical or mental disability, medical condition, genetic information, ~~veteran or military-and-veteran~~ status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics.

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 ~~it~~**the district** is necessary ~~required to~~**do so in order** to comply with federal immigration law. (2 CCR 11028)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. ~~Discrimination in hiring~~**Hiring**, compensation, terms, conditions, and other privileges of employment
2. Taking of an ~~adverse employment action,~~**actions** 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 ~~individual's~~**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
 - 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
 - c. ~~Requirement for a~~**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

- 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 the effective reasonable accommodations, if any, to be provided to the employee
- e. **Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision making**

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 any document that releases **a release of the employee's claim or right to file a claim against the district or to disclose 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 employment practices. 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, 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. All other employees are encouraged to report such incidents to their supervisor immediately. ~~The district shall protect any employee who reports such incidents from retaliation.~~

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other related **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.

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 Civil Rights Department, 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)

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 References

2 CCR 11006-11086

Description

Discrimination in employment - <https://simbli.eboardsolutions.com/SU/jUNOUneBGplusu4fvMYTIWMKA==>

2 CCR 11023	Harassment and discrimination prevention and correction - https://simbli.eboardsolutions.com/SU/haAgKnrQhVJbslsh34hY5zslsh5Q==
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation - https://simbli.eboardsolutions.com/SU/WdslshVrKs4pluscfHplushNGLhCeQw==
2 CCR 11027-11028	National origin and ancestry discrimination - https://simbli.eboardsolutions.com/SU/SYk7u9LttH4epGWfUlfjdg==
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
CA Constitution Article 1, Section 1	Inalienable rights
Civ. Code 51.7	Freedom from violence or intimidation - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 200-262.4	Prohibition of discrimination - https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAAbNL6kKkgxQ==
Gov. Code 11135	Prohibition of discrimination - https://simbli.eboardsolutions.com/SU/PcUFWeMcCJnzBrKAL0EtfQ==
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12952	Unlawful employment practices
Gov. Code 12960-12976	Unlawful employment practices; complaints
Pen. Code 422.56	Definitions; hate crimes

Federal References

	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
29 USC 621-634	Age Discrimination in Employment Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.6	Title VI; Compliance information
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 104.8	Notice of Nondiscrimination on the Basis of Handicap
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.1-110.39	Nondiscrimination on the basis of age
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age discrimination in federally assisted programs
Executive Order 11246	"Know Your Rights: Workplace Discrimination is Illegal" poster
U.S. Constitution	Amendment 1, Free exercise, free speech, and establishment clauses

Management Resources References

	Description
CA Civil Rights Department Publication	Family Care and Medical Leave and Pregnancy Disability Leave
CA Civil Rights Department Publication	California Law Prohibits Workplace Discrimination and Harassment
CA Civil Rights Department Publication	The Rights of Employees Who Are Transgender or Gender Nonconforming

CA Civil Rights Department Publication	Harassment Prevention Guide for California Employers
CA Civil Rights Department Publication	Your Rights and Obligations as a Pregnant Employee
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Shephard v. Loyola Marymount, (2002) 102 Cal.App. 4th 837
Court Decision	Thomson v. North American Stainless LP (2011) 62 U.S. 170
U.S. DOE Office for Civil Rights Publication	Notice of Non-Discrimination, August 2010
U.S. Equal Employment Opportunity Comm Publication	Know Your Rights: Workplace Discrimination is Illegal, October 2022
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
U.S. Equal Employment Opportunity Comm Publication	EEOC Compliance Manual
Website	U.S. Department of Labor, Office of Federal Contract Compliance Program - https://simbli.eboardsolutions.com/SU/PH97sURpCaw0yTclBzHxZA==
Website	CSBA District and County Office of Education Legal Services - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDslshXk6R5akQ==
Website	California Civil Rights Department - https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyl8K40jw==
Website	U.S. Department of Education, Office for Civil Rights - https://simbli.eboardsolutions.com/SU/xmCPrTcoZle111WmbX10Vg==
Website	U.S. Equal Employment Opportunity Commission - https://simbli.eboardsolutions.com/SU/vWZpgy5hWTz73t9BVEDPpA==

Cross References

Description

0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/FnDZ7yHITUVLmcPBwcYa4w==
1113-E(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/oJaE6pBfeb1TIUhdIbjlHA==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/BzLslshM03JGp7plus8dzh1Fzc4Q==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/LkplusM8wFuCJc9T99n32Hnw==
1113-E PDF(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/fCje9zCXa1OFcXTUBQYRhw==
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/JfCojzMhplusqvFyCOp9Cgiw==
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/LnhNVipgsss47FWyv0docA==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/s1kDPms91ZslshXvtuUxCKMdw==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/KR2sg4KWAHgxai0qdzjyQA==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/UeCd2AJlxfBU7E37o1kmUg==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/3x1plusj0z5ZLMqRsshsEIT6Q==
1312.1-E PDF(1)	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/eAlz50x7oMx0vq3x9PjTplusg==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CfApluscpXRIZplusOj2lmuhfqBA==

1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/NaAoUplustL0gdMDg4YyrqkSQ==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/CGtJ1bS0fJ2qqnQzzY5qbQ==
1312.3-E PDF(2)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/hYsgaF9LHjplus4tINfVHZyg==
1313	Civility - https://simbli.eboardsolutions.com/SU/yQa4hXbmytYs4p2JKUbNw==
3312	Contracts - https://simbli.eboardsolutions.com/SU/RtEPentWF4fC8KdSsZuiQQ==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/AwD0gWC1fp3vplus35CcotDig==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/usslshWhTtZbMepJAoA7BVd6g==
3580	District Records - https://simbli.eboardsolutions.com/SU/slshum9iqFSJwslshMnliyP5FuWQ==
3600	Consultants - https://simbli.eboardsolutions.com/SU/19Y2YhOrjSGxS8QOUWGnA==
4000	Concepts And Roles - https://simbli.eboardsolutions.com/SU/OD2npGAZCiRik4Mzfor9zA==
4032	Reasonable Accommodation - https://simbli.eboardsolutions.com/SU/xCU2Q3bo4IrdA5Kslsh5iqGslshA==
4033	Lactation Accommodation - https://simbli.eboardsolutions.com/SU/BCWG4ZmkOPFlvslshL6SHOGDA==
4111	Recruitment And Selection - https://simbli.eboardsolutions.com/SU/4REAQQlwxXgwcOAHpkWpJA==
4111.2	Legal Status Requirement - https://simbli.eboardsolutions.com/SU/m3WslshNV7bzEWPHOTWVprGLw==
4111.2	Legal Status Requirement - https://simbli.eboardsolutions.com/SU/ow5QplusyINAIyRplusgLw2Vowgg==
4112.4	Health Examinations - https://simbli.eboardsolutions.com/SU/nKXNuY4nuf6VtbFdt8BxXQ==
4112.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/slshxWc7zKFP9LhPljHzE6Oog==
4112.41	Employee Drug Testing - https://simbli.eboardsolutions.com/SU/WdEhMAREy52FewQdK0pSNQ==
4112.6	Personnel Files - https://simbli.eboardsolutions.com/SU/ZbKyC91DY3CsgslshTWWChauQ==
4112.9-E(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/f28Y8g0QzDvpW3nyGgLPkRQ==
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4112.9-E PDF(1)	Employee Notifications - https://simbli.eboardsolutions.com/SU/TOWynt27j11e84Ed9go0cQ==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/zZ8ALG9AVGufbVzECQB8Tw==
4118	Dismissal/Suspension/Disciplinary Action - https://simbli.eboardsolutions.com/SU/XIEfnDBZPAuMslshpEqBrwTKw==
4119.1	Civil And Legal Rights - https://simbli.eboardsolutions.com/SU/ikYi9iffEslshg1YvCnslshHa9FA==

4119.11 Sexual Harassment -
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4119.11 Sexual Harassment -
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4119.41 Employees With Infectious Disease -
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4131 Staff Development -
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4144 Complaints -
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4151 Employee Compensation -
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4154 Health And Welfare Benefits -
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4154 Health And Welfare Benefits -
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4161.5 Military Leave -
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4161.8 Family Care And Medical Leave -
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4211 Recruitment And Selection -
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4211.2 Legal Status Requirement -
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4212.4 Health Examinations -
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4212.41 Employee Drug Testing -
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4212.6 Personnel Files -
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4212.9-E(1) Employee Notifications -
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4218 Dismissal/Suspension/Disciplinary Action -
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4219.41 Employees With Infectious Disease -
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4319.41	Employees With Infectious Disease - https://simbli.eboardsolutions.com/SU/U6X8VCGYePZQtETEvG6GyQ==
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4361.5	Military Leave - https://simbli.eboardsolutions.com/SU/HxmjV90lpHeE2ojNvULbzg==
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9000 Role Of The Board -
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9321-E PDF(1) Closed Session -
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9321 Closed Session -
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