NONDISCRIMINATION IN EMPLOYMENT

The Governing Board is determined to provide a positive work environment where employees and job applicants are free from harassment and are assured of equal access and opportunities in accordance with law. The Board prohibits any district employee from harassing or discriminating against any other district employee or job applicant 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, 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)
(cf. 4032 - Reasonable Accommodation)
(cf. 4033 - Lactation Accommodation)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)
(cf. 4154/4254/4354 - Health and Welfare Benefits)
(cf. 5145.7 - Sexual Harassment)

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.

(cf. 4032 – Reasonable Accommodation)
(cf. 4154/4254/4354 – Health & Welfare Benefits)

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.

(cf. 4033 - Lactation Accommodation)

Harassment consists of any unwelcome verbal, physical, or visual conduct that is based on any of the prohibited categories of discrimination listed above and that is so severe and 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.

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

The Board prohibits discrimination and/or harassment based on a person’s application for or participation in apprenticeship training programs, other training programs leading to employment, unpaid internships, volunteer positions and other limited duration programs to provide unpaid work experience.

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)

It is also an unlawful employment practice to discharge an employee or in any manner discriminate, retaliate, or take any adverse action against an employee based on the employee’s lawful change of name, social security number, or federal employment authorization document.

The Board prohibits actions that discourage or prevent applicants or employees from enrolling or continuing enrollment in public benefit programs, nor may applicants or employees be discriminated against for enrollment or participation in such programs. The District shall not disclose to any person or entity, unless otherwise permitted by state or federal law, that an employee receives or is applying for public benefits.

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. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The following position is designated as Coordinator for Nondiscrimination in Employment:

Associate Superintendent, Human Resources, Elk Grove Unified School District, Robert L. Trigg Education Center, Room 103, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624; Telephone: (916) 686-7795
NONDISCRIMINATION IN EMPLOYMENT (continued)

Any employee or job applicant who believes that he/she has been or is being discriminated
against or harassed in violation of district policy should, as appropriate, immediately contact
his/her supervisor, the Coordinator, or the Superintendent who shall advise the employee or
applicant about the district's procedures for filing, investigating, and resolving any such
complaint.

Complaints regarding employment discrimination or harassment shall immediately be
investigated in accordance with BP & AR 1312.1 – Complaint Procedures.

(cf. BP & AR 1312.1 – Complaint Procedures)

Pursuant to BP & AR 1312.1, an employee, applicant, unpaid intern or volunteer will
be assured of the following:

1) All complaints will be investigated confidentially to the extent possible;
2) A timely response will be provided to all complaints;
3) All complaints will be investigated impartially and in a timely manner by
   qualified personnel;
4) There will be documentation and tracking of the complaint investigation;
5) Appropriate options for remedial actions and resolutions, if appropriate, will be
   provided;
6) There will be timely closures of all complaint investigations;
7) A complainant has multiple persons to complain to, including but not limited to the
   Employment Discrimination Coordinator listed above, and is not required to first make a
   complaint to his or her immediate supervisor;
8) When the district receives allegations of misconduct or discrimination, it will conduct a
   fair, timely, and thorough investigation that provides all parties appropriate due process
   and reaches reasonable conclusions based on the evidence collected.
9) Complainants shall not be exposed to retaliation as a result of lodging their complaint.

Any supervisory or management employee who observes or has knowledge of an incident of
prohibited discrimination or harassment shall report the incident to the Coordinator or
Superintendent 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.

Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may 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:
NONDISCRIMINATION IN EMPLOYMENT (continued)

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960.

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5).

3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5).

Training and Notifications

The Superintendent or designee shall provide training 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.

(cf. 4131- Staff Development)
(cf. 4231- Staff Development)
(cf. 4331- Staff Development)

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 shall be posted in all district schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

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
NONDISCRIMINATION IN EMPLOYMENT (continued)

PENAL CODE
422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2
7287.6 Terms, conditions and privileges of employment

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
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

Management Resources:
Nondiscrimination in Employment (continued)

California Department of Fair Employment and Housing Publications
California Law Prohibits Workplace Discrimination and Harassment, December 2014

Equal Employment Opportunity Commission Publications
Questions and Answers: Religious Discrimination in the Workplace, 2008
Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002
Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

U.S. Department of Education, Office for Civil Rights Publications
Notice of Non-Discrimination, August 2010

Web Sites
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

Policy
Adopted: May 16, 1994
Revised: April 6, 1998
Revised: July 1, 2002
Revised: October 16, 2012
Revised: March 17, 2015
November 15, 2016

Elk Grove Unified School District
Elk Grove, California