

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

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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

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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:

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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

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

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

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>

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

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