

## NONDISCRIMINATION IN EMPLOYMENT

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 or 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 contract with the district to provide services, as applicable.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 3312 - Contracts)*

*(cf. 3600 - Consultants)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

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, 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.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

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 is necessary 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, compensation, terms, conditions, and other privileges of employment;

*(cf. 4151/4251/4351 - Employee Compensation)*

*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

2. Taking of an 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 individual's work performance or creating an intimidating, hostile, or offensive work environment; and

**NONDISCRIMINATION IN EMPLOYMENT (continued)**

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;

*(cf. 4033 - Lactation Accommodation)*  
*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

- 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;

*(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)*

- c. Requirement for a 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; and

*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*

- 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 in order to determine the effective reasonable accommodations, if any, to be provided to the employee.

*(cf. 4032 - Reasonable Accommodation)*

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, 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)

**NONDISCRIMINATION IN EMPLOYMENT (continued)**

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 the employee's right to file a claim against the district or to disclose information about harassment or other unlawful employment practices. (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 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.

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*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, especially:

12940-12952 Unlawful employment practices

12960-12976 Unlawful employment practices; complaints

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11086 Discrimination in employment, especially:

11013 Recordkeeping

## **NONDISCRIMINATION IN EMPLOYMENT (concluded)**

*11019 Terms, conditions and privileges of employment*  
*11023 Harassment and discrimination prevention and correction*  
*11024 Sexual harassment training and education*  
*11027-11028 National origin and ancestry discrimination*  
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*  
CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS  
*California Law Prohibits Workplace Discrimination and Harassment*  
U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS  
*Notice of Non-Discrimination, August 2010*  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS  
*EEOC Compliance Manual*  
*Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999*  
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>*

Management Resources:

Revised: 04/14/92, 02/09/93, 01/11/00, 04/16/02, 06/17/02, 06/17/04, 10/21/10, 04/21/16, 02/16/17, 09/10/19

Adopted: 09/11/90

Reviewed:

**WRIGHT ELEMENTARY SCHOOL DISTRICT**  
Santa Rosa, California

## NONDISCRIMINATION IN EMPLOYMENT

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 1240 - Volunteer Assistance)*

*(cf. 3312 - Contracts)*

*(cf. 3600 - Consultants)*

*(cf. 4032 - Reasonable Accommodation)*

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 nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Adam Schaible, Superintendent  
4385 Price Avenue  
Santa Rosa, CA 95407  
Telephone: (707) 542-0550 x102  
Email: [aschaible@wrightesd.org](mailto:aschaible@wrightesd.org)

### Measures to Prevent Discrimination

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 ~~on computers~~ in a conspicuous location ***on computers for employee use, the up-to-date*** California Department of Fair Employment and Housing (DFEH) posters ~~in regard to~~ ***on the prohibition of*** workplace discrimination and harassment, ~~and~~ ***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 12950; 2 CCR 11013, 11023, 11049)

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

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);

**NONDISCRIMINATION IN EMPLOYMENT (continued)**

- 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; and
- c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available.

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

3. Disseminate the district's nondiscrimination policy to all employees by one or more of the following methods: (2 CCR 11023)
  - a. Printing and providing a copy of the policy to all employees, with an acknowledgment form for each employee to sign and return;
  - b. Sending the policy via email with an acknowledgment return form;
  - c. Posting the policy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies;
  - d. Discussing the policy with employees upon hire and/or during a new hire orientation session; or
  - e. Any other way that ensures employees receive and understand the policy.

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

4. Provide to employees a handbook that contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to anyone who feels that he/she has been the victim of any discriminatory or harassing behavior;

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

5. Provide training to employees, volunteers, and interns regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

**NONDISCRIMINATION IN EMPLOYMENT (continued)**

The district may also provide bystander intervention training to employees that includes information and practical guidance on how to recognize potentially problematic behaviors and motivates 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)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

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

**Complaint Procedure**

***Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.***

Any ***other*** complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: A complainant may inform a direct supervisor, another supervisor, ***the coordinator***, the Superintendent or, if available, a complaint hotline or an ombudsman. The ~~employee's~~ ***complainant's*** direct supervisor may be bypassed in filing a complaint where the supervisor is the subject of the complaint.

The complainant may ~~first file~~ ***attempt to resolve the situation informally with the complaint's supervisor before filing a written complaint.*** ~~a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.~~

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

## **NONDISCRIMINATION IN EMPLOYMENT (continued)**

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 4032 - Reasonable Accommodation)*

2. Investigation Process: The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation into the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

*(cf. 3580 - District Records)*

*(cf. 4112.6/4212.6/4312.6 - Personnel Files)*

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

If the coordinator determines that a detailed fact-finding investigation is necessary, ~~he/she~~ shall begin the investigation **shall begin** immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out his/her investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed **in order** to ~~ensure that prevent~~ further incidents ~~are prevented~~. The coordinator shall ensure that such interim measures do not constitute retaliation.

**NONDISCRIMINATION IN EMPLOYMENT (concluded)**

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the complainant and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 9321 - Closed Session Purposes and Agendas)*

**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:

The time limits for filing such complaints are as follows:

1. ~~To file~~ **For filing** a valid complaint with DFEH, ***alleging a violation of Government Code 12940-12952***, within ~~one~~ ***three*** years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960;
2. ~~To~~ **For filing** a valid complaint ~~directly~~ with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5); and

**NONDISCRIMINATION IN EMPLOYMENT (concluded)**

3. ~~To file~~ ***For filing*** 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).