

All Personnel

NONDISCRIMINATION IN EMPLOYMENT

The Board of Education prohibits District employees from discriminating against and/or harassing other District employees, volunteers, other persons, or job applicants at any District site or activity on the basis of actual or perceived race or ethnicity, color, religion, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military or veteran status, gender, gender identity, gender expression, sex, or sexual orientation or his/her 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. 4019 – Sexual Harassment)

(cf. 4111.1 – Affirmative Action)

Prohibited discrimination consists of taking an adverse employment action against an individual based on any of the above prohibited categories of discrimination. These adverse actions include but are not limited to, termination; transfer; denial of promotion, job assignment, or training; and discriminating against the individual in compensation terms, conditions, or other privileges of employment.

Harassment that rises to level of discrimination consists of any unwelcome verbal, physical, or visual conduct, based on any of the prohibited categories of discrimination listed above, that is so severe or pervasive that it adversely affects an individual's employment opportunities, has the purpose or effect of unreasonably interfering with his/her work performance, or creates an intimidating, hostile, or offensive work environment.

Harassment consists of any unwelcome verbal, physical, or visual conduct, based on any of the prohibited categories of discrimination listed above, that is so severe or pervasive that it adversely affects an individual's employment opportunities, has the purpose or effect of unreasonably interfering with his/her work performance, or creates an intimidating, hostile, or offensive work environment.

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2CCR 11006-11086, such as:

All Personnel

NONDISCRIMINATION IN EMPLOYMENT (continued)

1. 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)

2. Religious creed discrimination based on an employee's religious belief or observance, including his/her 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.
3. Disability discrimination based on a District requirement for a medical or psychological examination of a job applicant, or any 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.

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

4. 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 an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodations for a known physical or mental disability or medical condition.

(cf. 4032 – Reasonable Accommodation)

The Board also prohibits retaliation against any District employee or job applicant who complains, testifies, assists, or in any way participates in the District's complaint procedures instituted pursuant to this policy.

Any District employee who engages or participates in prohibited discrimination or harassment, or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior, shall be in violation of this policy and shall be subject to disciplinary action, up to and including dismissal.

All Personnel

NONDISCRIMINATION IN EMPLOYMENT (continued)

(cf. 4117.4/4317.4 – Dismissal)
(cf. 4218 – Termination of Employment)

Equal opportunity shall be provided to all employees and applicants in every aspect of personnel policy and practice. The District shall not discriminate against persons with disabilities who, with reasonable accommodation, can perform the essential functions of the job in question.

The Board designates the following position as the Coordinator for Nondiscrimination in Employment:

Assistant Superintendent, Human Resources
Chula Vista Elementary School District
84 East J Street
Chula Vista, CA 91910
(619) 425-9600

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 immediately contact his/her supervisor, the Coordinator designated above, or the Superintendent, who shall advise the employee or applicant about the District's procedures for filing, investigating, and resolving any such complaints. The complainant may file 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. The Coordinator may implement interim measures that do not constitute retaliation.

Complaints regarding employment discrimination or harassment that rises to the level of discrimination shall immediately be investigated in accordance with the District's Administrative Regulation (AR) 4031 and Board Policy (BP) and AR 1312.3. The Coordinator or designee 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.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to his/her supervisor, the Coordinator, or the Superintendent as soon as practical after he/she observes or learns of the incident. All other employees are encouraged to report any such incidents of which they become aware to their supervisor immediately.

All Personnel

NONDISCRIMINATION IN EMPLOYMENT (continued)

The Superintendent/designee shall use all appropriate means to reinforce the District's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately and report any complaint of misconduct to the Assistant Superintendent of Human Resources, and components of the District's policies and regulations regarding discrimination. The Superintendent/designee shall regularly review the District's employment practices and, as necessary, shall take action to ensure District compliance with 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.

This BP, including the complaint procedures and Coordinator's contact information, shall be posted in all schools and offices, including staff lounges, student government meeting rooms, and on the District website.

The Superintendent/designee shall disseminate the District's nondiscrimination BP to all employees by one or more of the following methods: (2 CCR 11023)

1. Printing and providing a copy of the BP to all employees, with an acknowledgment form for each employee to sign and return.
2. Sending the BP via email with an acknowledgment return form.
3. Posting the BP on the District intranet with a tracking system ensuring all employees have read and acknowledged receipt of the BP.
4. Discussing the BP with employees upon hire and/or during a new hire orientation session.
5. Any other way that ensures employees receive and understand the BP.

(cf. 4112.9/4212.9/4312.9 – Employee Notifications)

All Personnel

NONDISCRIMINATION IN EMPLOYMENT (continued)

For any District facility where 10 percent of employees have a language other than English as their spoken language, the District shall translate the BP into every language spoken by at least 10 percent of the workforce.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of Discrimination
44100 Legislative intent, affirmative action employment

CIVIL CODE

51.7 Freedom from violence or intimidation

GOVERNMENT CODE

11135 Unlawful Discrimination
12900-12996 Fair Employment and Housing Act

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11019 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4611 Referring Complaint Issues to other appropriate state or federal agencies

4900-4956 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

681-1688 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

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

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, March 2010

All Personnel

NONDISCRIMINATION IN EMPLOYMENT (continued)

WEB SITES

California Department of Fair Employment and Housing: www.dfeh.ca.gov

U.S. Equal Employment Opportunity Commission: www.eeoc.gov

U.S. Department of Education, Office for Civil Rights: www2.ed.gov/about/offices/list/ocr

Policy

Adopted: 11/13/90

Revised: 04/09/14

Revised: 10/11/17

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California