



Superintendent Policy

SP 4030

Personnel

July 6, 2021

NONDISCRIMINATION IN EMPLOYMENT

The Santa Cruz County Superintendent of Schools (County Superintendent) is determined to provide a safe, positive environment where all Santa Cruz County Office of Education (Santa Cruz COE) 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 Santa Cruz COE to provide services, as applicable.

No Santa Cruz COE 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.

The Santa Cruz COE 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.
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.
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 Santa Cruz COE'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 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.
- 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

The County Superintendent also prohibits retaliation against any Santa Cruz COE employee who opposes any discriminatory employment practice by the Santa Cruz COE or its employees, agents, or representatives or who complains, testifies, assists, or in any way participates in the Santa Cruz COE'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 the employee's right to file a claim against the Santa Cruz COE 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 County Superintendent or designated Santa Cruz COE coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The Santa Cruz COE shall protect any employee who reports such incidents from retaliation.

The County Superintendent or designee shall use all appropriate means to reinforce the Santa Cruz COE'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 Santa Cruz COE's policies and regulations regarding discrimination. The County Superintendent or designee shall regularly review the Santa Cruz COE's employment practices and, as necessary, shall take action to ensure Santa Cruz COE compliance with the nondiscrimination laws.

Any Santa Cruz COE 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.

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

11019 Terms, conditions and privileges of employment

Harassment and discrimination prevention and correction

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 Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837
Management Resources:

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

California Law Prohibits Workplace Discrimination and Harassment
Transgender Rights in the Workplace
Workplace Harassment Guide for California Employers
Your Rights and Obligations as a Pregnant Employee

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>



SANTA CRUZ
COUNTY OFFICE OF
EDUCATION
DR. FARIS SABBAH • SUPERINTENDENT OF SCHOOLS

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>