

NON DISCRIMINATION IN EMPLOYMENT

The Santa Cruz County Superintendent of Schools is determined to provide county office employees, interns, volunteers, and job applicants a safe, positive environment where they 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. This policy shall apply to all county office employees and, to the extent required by law, to interns, volunteers, and job applicants.

No county office 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, 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 his/her association with a person or group with one or more of these actual or perceived characteristics.

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 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.
 - C. Disability discrimination based on a district 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. 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 accommodation for a known physical or mental disability or medical condition

(cf. 4032 - Reasonable Accommodation)

The Superintendent also prohibits retaliation against any county office 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 county office'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)

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 shall report the incident to the Deputy Superintendent or designated county office coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The county office shall protect any employee who reports such incidents from retaliation.

The Deputy Superintendent or designee shall use all appropriate means to reinforce the county office'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 components of the county office's policies and regulations regarding discrimination. The Deputy Superintendent or designee shall regularly review the county office's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

In addition, the Deputy Superintendent or designee shall post, in a conspicuous place on district premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

Any county office 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

PENAL CODE

422.56: Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11086: Discrimination in employment

11013: Recordkeeping

11019: Terms, conditions and privileges of employment

11023: Harassment and discrimination prevention and correction

11024: Sexual harassment training and education

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, December 2014

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, August 2010

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008
New Compliance Manual Section 15: Race and Color Discrimination, April 2006
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>