

Palm Springs USD

Board Policy

BP 4030, Personnel

NONDISCRIMINATION IN EMPLOYMENT

The Board of Education prohibits unlawful discrimination against and/or harassment of district employees and job applicants on the basis of actual or perceived race, color, ethnic group identification, ethnicity, national origin, immigration status, ancestry, religion, age, marital status, pregnancy, parental status, physical or mental disability, medical condition, veteran status, gender, gender identity, gender expression, genetic information, sex or sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics at any district site and/or activity. The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.

(cf. 4031- Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

Any district employee who engages or participates in unlawful discrimination, harassment, or retaliation or who aids, abets, incites, compels or coerces another to discriminate or harass, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

Prohibited discrimination consists of the taking of any adverse employment action against a person, including termination or denial of promotion, job assignment, or training, or in discriminating against the person in compensation, terms, conditions, or other privileges of employment based on any of the prohibited categories of discrimination listed above.

The prohibition against discrimination based on the religious creed of an employee or job applicant includes any discrimination based on his/her religious dress or grooming practices or any conflict between his/her religious belief, observance, or practice and an employment requirement. The prohibition against discrimination based on the sex of an employee or job applicant shall include any discrimination based on the person's pregnancy, childbirth, breastfeeding, or any related medical conditions. (Government Code 12926, 12940)

Prohibited discrimination or harassment also consists of any unwelcome verbal, physical, or visual conduct based on any of the prohibited categories of discrimination listed above and that is so

severe or pervasive that it adversely affects his/her employment opportunities, has the purpose or effect of unreasonably interfering with his/her work performance, or creates an intimidating, hostile, or offensive work environment.

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, promptly contact his/her supervisor, the Coordinator(s) for Nondiscrimination, or the Superintendent who shall advise the employee or job 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 AR 4031 - Complaints Concerning Discrimination in Employment.

(cf. 4031- Complaints Concerning Discrimination in Employment)

Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.

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 and administrative regulation shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

The Board designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment ("Coordinator"):

Assistant Superintendent of Human Resources and/or designee

Palm Springs Unified School District

150 District Center Drive

Palm Springs, CA 92264

760-883-2700

Other Remedies

An employee may, in addition to filing a discrimination or harassment complaint with the district, file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC) as specified in AR 4030 – Nondiscrimination in Employment.

Employees wishing to file complaints with the DFEH and EEOC should contact the Coordinator for more information.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

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

7287.6 Terms, conditions and privileges of employment

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

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

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, 1972 Education Act Amendments

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 of the basis of age

COURT DECISIONS

Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863

Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694

Shephard v. Loyola Marymount (2002) 102 CalApp.4th 837

Management Resources:

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

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

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

Notice of Non-Discrimination, August 2010

Notice of Non-Discrimination, January, 1999

WEB SITES

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/about/offices/list/ocr>

DFEH: <http://www.dfeh.ca.gov>

Policy PALM SPRINGS UNIFIED SCHOOL DISTRICT

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revised: November 26, 2019 Palm Springs, California