OAKLAND UNIFIED SCHOOL DISTRICT
Board Policy

Personnel

BP 4030
Nondiscrimination In Employment

The Governing Board desires to provide a positive work environment where employees and job applicants are assured of equal access and opportunities and are free from harassment in accordance with law. The Board prohibits district employees from discriminating against or harassing any other district employee or job applicant on the basis of the person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation. (cf. 0410 - Nondiscrimination in District Programs and Activities) (cf. 4032 - Reasonable Accommodation) (cf. 4033 - Lactation Accommodation) (cf. 4119.11/4219.11/4319.11 - Sexual Harassment) (cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease) (cf. 4154/4254/4354 - Health and Welfare Benefits) (cf. 5145.7 - Sexual Harassment)

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 the person's religious dress or grooming practices or any conflict between the person's 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)

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

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 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. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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, immediately contact his/her supervisor, the District Ombudsperson, or the Chief Talent Officer who shall advise the employee or 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 supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Ombudsperson or the Chief Talent Officer as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

Training and Notifications

The Superintendent or designee shall provide training to employees about how to recognize harassment and discrimination, how to respond appropriately, and components of the district's policies and regulations regarding discrimination.

(cf. 4131- Staff Development)
(cf. 4231- Staff Development)
(cf. 4331- Staff Development)

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

Management Resources:
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
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
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

8/25/04; 10/26/11A; 2/25/15A