

**NONDISCRIMINATION IN EMPLOYMENT**

The Board of Trustees is determined to provide a safe, positive environment where all district 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 and accompanying administrative regulation, employees include interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

No district 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 one, or a combination of two or more, protected characteristics which include, but may not be limited to, the employee's actual or perceived race or ethnicity, color, ancestry, ethnic group identification, nationality, national origin, immigration status, sex, sexual orientation, sex stereotypes, gender, gender identity, gender expression, religion, religious creed, age, disability, medical condition, genetic information, pregnancy, false pregnancy, childbirth, termination of pregnancy, or related conditions or recovery, reproductive health decision-making, breastfeeding or related medical conditions, and parental, marital, and family status, or association with a person or group with one or more of these actual or perceived characteristics.

The district 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 such an inquiry is necessary to comply with federal immigration law. (2 CCR 11028)

In addition, unless otherwise provided for in law, the district may not discriminate against an employee in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the person's hair, blood, urine, or other bodily fluid. However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

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. Hiring, compensation, terms, conditions, and other privileges of employment
2. Taking adverse employment actions such as termination or denial of employment, promotion, job assignment, or training

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3. Unwelcome conduct, whether verbal, physical, or visual, that is offensive and 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 employee'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 one, or a combination of two or more protected characteristics, which include, but may not be limited to, an employee's pregnancy, childbirth, breastfeeding, or any related medical condition, or on an employee's gender, gender expression, gender identity, or sexual orientation
  - b. Religious creed discrimination based on an employee's religious belief, observance, and practice, including 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. Requiring medical or psychological examination of a job applicant or making 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
  - e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision-making
  - f. Including a statement in a job advertisement, posting, application, or other material that an applicant is required to have a driver's license, unless the district reasonably expects driving to be one of the job functions for the position and reasonably believes that satisfying the job function using an alternative form of transportation would not be comparable in travel time or cost to the district

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who

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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 a release of the employee's claim or right to file a claim against the district or a nondisparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

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 Superintendent or designated district coordinator within one workday. All other employees shall report such incidents to their supervisor or designated district coordinator within one workday.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the 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.

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation. However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 4119.12/4219.12/4319.12– Title IX Sexual Harassment Complaint Procedures.

The district shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the district is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

**NONDISCRIMINATION IN EMPLOYMENT (continued)**

| <b>State</b>                                       | <b>Description</b>                                                                                                 |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 2 CCR 11006-11086                                  | Discrimination in employment                                                                                       |
| 2 CCR 11023                                        | Harassment and discrimination prevention and correction                                                            |
| 2 CCR 11024                                        | Required training and education on harassment based on sex, gender identity and expression, and sexual orientation |
| 2 CCR 11027-11028                                  | National origin and ancestry discrimination                                                                        |
| 5 CCR 4900-4965                                    | Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance |
| CA Constitution Article 1, Section 1               | Inalienable rights                                                                                                 |
| Civ. Code 51.7                                     | Freedom from violence or intimidation                                                                              |
| Ed. Code 200-262.4                                 | Prohibition of discrimination                                                                                      |
| Gov. Code 11135                                    | Prohibition of discrimination                                                                                      |
| Gov. Code 11138                                    | Rules and regulations                                                                                              |
| Gov. Code 12900-12996                              | Fair Employment and Housing Act                                                                                    |
| Gov. Code 12940-12952                              | Unlawful employment practices                                                                                      |
| Gov. Code 12960-12976                              | Unlawful employment practices; complaints                                                                          |
| Pen. Code 422.56                                   | Definitions, hate crimes                                                                                           |
| 20 USC 1681-1688                                   | Title IX of the Education Amendments of 1972; discrimination based on sex                                          |
| 28 CFR 35.101-35.190                               | Americans with Disabilities Act                                                                                    |
| 29 USC 621-634                                     | Age Discrimination in Employment Act                                                                               |
| 29 USC 794                                         | Rehabilitation Act of 1973; Section 504                                                                            |
| 34 CFR 100.6                                       | Compliance information                                                                                             |
| 34 CFR 104.7                                       | Designation of responsible employee for Section 504                                                                |
| 34 CFR 104.8                                       | Notice                                                                                                             |
| 34 CFR 106.8                                       | Designation of responsible employee and adoption of grievance procedures                                           |
| 34 CFR 106.9                                       | Severability                                                                                                       |
| 34 CFR 110.1-110.39                                | Nondiscrimination on the basis of age                                                                              |
| 42 USC 12101-12213                                 | Americans with Disabilities Act                                                                                    |
| 42 USC 2000d-2000d-7                               | Title VI, Civil Rights Act of 1964                                                                                 |
| 42 USC 2000e-2000e-17                              | Title VII, Civil Rights Act of 1964, as amended                                                                    |
| 42 USC 2000ff-2000ff-11                            | Genetic Information Nondiscrimination Act of 2008                                                                  |
| 42 USC 2000h-2-2000h-6                             | Title IX of the Civil Rights Act of 1964                                                                           |
| 42 USC 6101-6107                                   | Age discrimination in federally assisted programs                                                                  |
| U.S. Constitution Amendment 1,                     | Free exercise, free speech, and establishment clauses                                                              |
| <b>Management Resources</b>                        | <b>Description</b>                                                                                                 |
| CA Dept of Fair Employment and Housing Publication | California Law Prohibits Workplace Discrimination and Harassment                                                   |
| CA Dept of Fair Employment and Housing Publication | Transgender Rights in the Workplace                                                                                |
| CA Dept of Fair Employment and Housing Publication | Workplace Harassment Guide for California Employers                                                                |
| CA Dept of Fair Employment and Housing Publication | Your Rights and Obligations as a Pregnant Employee                                                                 |
| Court Decision                                     | Kennedy v. Bremerton (2022) 142 S.Ct. 2407                                                                         |
| Court Decision                                     | Shephard v. Loyola Marymount, (2002)                                                                               |
|                                                    | Cal.Appl 4th 837                                                                                                   |
| Court Decision                                     | Thomson v. North American Stainless LP, (2011)                                                                     |

**BIGGS UNIFIED SCHOOL DISTRICT**

Biggs, California

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