

# **OAK PARK UNIFIED SCHOOL DISTRICT**

## **BOARD POLICY**

*Series 4000*

*Personnel*

*BP 4030 (1)*

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### Nondiscrimination In Employment

The Governing Board 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; ancestry; color; 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. (Education Code 200, 210.1, 210.2, 212, 212.1, 220, 230, 260; Government Code 11135, 12920, 12926, 12940; 20 USC 1681-1688, 29 USC 621, 42 USC 2000d-2000d-7, 2000e-2)

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 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
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:

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- 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 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 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)

Any employee who receives a report or observes an incident of sexual harassment in a district education program or activity must notify the Title IX Coordinator as soon as practicable.

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 as soon as practical. All other employees shall report such incidents to their supervisor or designated district coordinator immediately.

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

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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 sexual harassment 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)

Adopted: 1-21-92

Amended: 9-17-02, 6-8-10, 9-18-12, 2-19-13, 2-16-16, 10-18-16, 5-16-17, 9-17-19, 4-25-23, 9-10-24, 8-19-25

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### Policy Reference:

State	Description
2 CCR 11006-11086	Discrimination in employment
2 CCR 11023	<u>Harassment and discrimination prevention and correction</u>
2 CCR 11024	<u>Required training and education on harassment based on sex, gender identity and expression, and sexual orientation</u>
2 CCR 11027-11028	<u>National origin and ancestry discrimination</u>
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
CA Constitution Article 1, Section 1	<u>Inalienable rights</u>
Civ. Code 51.7	<u>Freedom from violence or intimidation</u>

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Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Gov. Code 11135	<u>Prohibition of discrimination</u>
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940-12954	<u>Unlawful employment practices</u>
Gov. Code 12960-12976	<u>Unlawful employment practices; complaints</u>
Lab. Code 1030-1034	<u>Lactation Accommodation</u>
Lab. Code 1197.5	<u>Wages, hours, and working conditions</u>
Lab. Code 79-107	<u>Division of Labor Standards Enforcement</u>
Pen. Code 422.56	<u>Definitions; hate crimes</u>
<b>Federal</b>	<b>Description</b>
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 CFR 1636	<u>Implementation of the Pregnant Workers Fairness Act</u>
29 USC 218d	<u>Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act</u>
29 USC 621-634	<u>Age Discrimination in Employment Act</u>
29 USC 794	<u>Rehabilitation Act of 1973; Section 504</u>
34 CFR 100.6	<u>Title VI; Compliance information</u>
34 CFR 104.7	<u>Section 504; Designation of responsible employee and adoption of grievances procedures</u>
34 CFR 104.8	<u>Notice of Nondiscrimination on the Basis of Handicap</u>
34 CFR 106.1-106.82	<u>Discrimination on the basis of sex; effectuating Title IX</u>
34 CFR 110.1-110.39	<u>Nondiscrimination on the basis of age</u>
42 USC 12101-12213	<u>Americans with Disabilities Act</u>
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	<u>Genetic Information Nondiscrimination Act of 2008</u>
42 USC 2000gg-2000gg-6	<u>Pregnant Workers Fairness Act</u>
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	<u>Age discrimination in federally assisted programs</u>

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U.S. Constitution, First Amendment	<u>Free exercise, free speech, and establishment clauses</u>
<b>Management Resources</b>	<b>Description</b>
CA Civil Rights Department Publication	<u>Sexual Harassment, January 2023</u>
CA Civil Rights Department Publication	<u>Family Care and Medical Leave and Pregnancy Disability Leave, January 2023</u>
CA Civil Rights Department Publication	<u>California Law Prohibits Workplace Discrimination and Harassment, January 2024</u>
CA Civil Rights Department Publication	<u>The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022</u>
CA Civil Rights Department Publication	<u>Harassment Prevention Guide for California Employers, 2017</u>
CA Civil Rights Department Publication	<u>Your Rights and Obligations as a Pregnant Employee, January 2023</u>
Court Decision	Burlington Northern and Santa Fe Ry. Co. v. White (2006) 548 U.S. 53
Court Decision	Tennessee v. Cardona (2024) 737 F.Supp.3d 510
Court Decision	Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581
Court Decision	McDonnell Douglas Corp v. Green (1973) 411 U.S. 792
Court Decision	John T. D. v. River Delta Joint Unified School District (2021) WL 5176356
Court Decision	<u>Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742</u>
Court Decision	<u>Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775</u>
Court Decision	<u>Groff v. DeJoy (2023) 600 U.S. 447</u>
Court Decision	<u>Kennedy v. Bremerton (2022) 142 S.Ct. 2407</u>
Court Decision	<u>Shephard v. Loyola Marymount (2002) 102 Cal.App. 4th 837</u>
Court Decision	<u>Thomson v. North American Stainless LP (2011) 62 U.S. 170</u>
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, May 19, 2020, Vol. 85, No. 97, pages 30026-30579</u>
U.S. Department of Education Publication	<u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</u>
U.S. DOE, Office for Civil Rights Publication	<u>Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025</u>
U.S. Equal Employment Opportunity Comm Publication	<u>EEOC Compliance Manual</u>

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Website	<u>U.S. Department of Labor, Office of Federal Contract Compliance Program</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of Industrial Relations</u>
Website	<u>California Civil Rights Department</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
Website	<u>U.S. Equal Employment Opportunity Commission</u>