

## **Middletown Unified School District**

### **Regulation 4030: Nondiscrimination In Employment**

**Original Adopted Date: 1/17/2024**

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

Superintendent

20932 Big Canyon Road, Middletown CA 95461

(707) 987-4100

superintendent@middletownusd.org

### **Measures to Prevent Discrimination**

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Civil Rights Department (CRD) posters on the prohibition of workplace discrimination and harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)
2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by: (5 CCR 4960; 34 CFR 100.6, 106.8)
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all district schools and offices, including staff lounges and other prominent locations
  - c. Posting them on the district's web site and providing easy access to them through district-supported social media, when available
3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)

- a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
  - b. Sending a copy via email with an acknowledgment return form
  - c. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
  - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
  - e. Any other way that ensures employees receive and understand the policy
2. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior
3. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made

The district may also provide bystander intervention training to employees which includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

4. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law
5. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

## **Complaint Procedure**

Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.

Any other complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. Notice and Receipt of Complaint: A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. Appeal to the Governing Board: The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

## Other Remedies

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either CRD or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with CRD alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a complaint with EEOC after first filing a complaint with CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier (42 USC 2000e-5)

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### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
2 CCR 11006-11086	<a href="#">Discrimination in employment</a>
2 CCR 11023	<a href="#">Harassment and discrimination prevention and correction</a>
2 CCR 11024	<a href="#">Required training and education on harassment based on sex, gender identity and expression, and sexual orientation</a>
2 CCR 11027-11028	<a href="#">National origin and ancestry discrimination</a>
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
CA Constitution Article 1, Section 1	<a href="#">Inalienable rights</a>
Civ. Code 51.7	<a href="#">Freedom from violence or intimidation</a>
Ed. Code 200-262.4	<a href="#">Prohibition of discrimination</a>
Gov. Code 11135	<a href="#">Prohibition of discrimination</a>
Gov. Code 12900-12996	<a href="#">Fair Employment and Housing Act</a>
Gov. Code 12940-12952	<a href="#">Unlawful employment practices</a>

Gov. Code 12960-12976

[Unlawful employment practices: complaints](#)

Pen. Code 422.56

[Definitions: hate crimes](#)

## **Federal**

## **Description**

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

Title VI; Compliance information

34 CFR 104.7

Section 504; Designation of responsible employee and adoption of grievance procedures

34 CFR 104.8

Notice of Nondiscrimination on the Basis of Handicap

34 CFR 106.8

Designation of coordinator; dissemination of policy, and adoption of grievance procedures

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

Executive Order 11246

[“Know Your Rights: Workplace Discrimination is Illegal” poster](#)

U.S. Constitution

[Amendment 1: Free exercise, free speech, and establishment clauses](#)

## **Management Resources**

## **Description**

CA Civil Rights Department Publication

Family Care and Medical Leave and Pregnancy Disability Leave

CA Civil Rights Department Publication

California Law Prohibits Workplace Discrimination and Harassment

CA Civil Rights Department Publication

Transgender Rights in the Workplace

CA Civil Rights Department Publication

Harassment Prevention Guide for California Employers

CA Civil Rights Department 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) 102 Cal.App. 4th 837

Court Decision

Thomson v. North American Stainless LP (2011) 62 U.S. 170

U.S. DOE Office for Civil Rights Publication	Notice of Non-Discrimination, August 2010
U.S. Equal Employment Opportunity Comm Publication	Know Your Rights: Workplace Discrimination is Illegal, October 2022
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999
U.S. Equal Employment Opportunity Comm Publication Website	EEOC Compliance Manual
	<a href="#">U.S. Department of Labor, Office of Federal Contract Compliance Program</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California Civil Rights Department</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>
Website	<a href="#">U.S. Equal Employment Opportunity Commission</a>

## Cross References

Code	Description
0410	<a href="#">Nondiscrimination In District Programs And Activities</a>
0470	<a href="#">COVID-19 Mitigation Plan</a>
1113	<a href="#">District And School Websites</a>
1113	<a href="#">District And School Websites</a>
1113-E(1)	<a href="#">District And School Websites</a>
1114	<a href="#">District-Sponsored Social Media</a>
1114	<a href="#">District-Sponsored Social Media</a>
1240	<a href="#">Volunteer Assistance</a>
1240	<a href="#">Volunteer Assistance</a>
1312.1	<a href="#">Complaints Concerning District Employees</a>
1312.1	<a href="#">Complaints Concerning District Employees</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(1)	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(2)	<a href="#">Uniform Complaint Procedures</a>
1313	<a href="#">Civility</a>
3312	<a href="#">Contracts</a>
3530	<a href="#">Risk Management/Insurance</a>
3530	<a href="#">Risk Management/Insurance</a>

3580	<a href="#">District Records</a>
3580	<a href="#">District Records</a>
3600	<a href="#">Consultants</a>
4000	<a href="#">Concepts And Roles</a>
4032	<a href="#">Reasonable Accommodation</a>
4033	<a href="#">Lactation Accommodation</a>
4111	<a href="#">Recruitment And Selection</a>
4111.2	<a href="#">Legal Status Requirement</a>
4111.2	<a href="#">Legal Status Requirement</a>
4112.4	<a href="#">Health Examinations</a>
4112.41	<a href="#">Employee Drug Testing</a>
4112.41	<a href="#">Employee Drug Testing</a>
4112.6	<a href="#">Personnel Files</a>
4112.8	<a href="#">Employment Of Relatives</a>
4112.9	<a href="#">Employee Notifications</a>
4112.9-E(1)	<a href="#">Employee Notifications</a>
4113.5	<a href="#">Working Remotely</a>
4114	<a href="#">Transfers</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4119.1	<a href="#">Civil And Legal Rights</a>
4119.11	<a href="#">Sexual Harassment</a>
4119.11	<a href="#">Sexual Harassment</a>
4119.12	<a href="#">Title IX Sexual Harassment Complaint Procedures</a>
4119.12-E(1)	<a href="#">Title IX Sexual Harassment Complaint Procedures</a>
4119.22	<a href="#">Dress And Grooming</a>
4119.23	<a href="#">Unauthorized Release Of Confidential/Privileged Information</a>
4119.41	<a href="#">Employees With Infectious Disease</a>
4131	<a href="#">Staff Development</a>
4144	<a href="#">Complaints</a>
4144	<a href="#">Complaints</a>
4151	<a href="#">Employee Compensation</a>
4154	<a href="#">Health And Welfare Benefits</a>

4154	<a href="#">Health And Welfare Benefits</a>
4161.5	<a href="#">Military Leave</a>
4161.8	<a href="#">Family Care And Medical Leave</a>
4211	<a href="#">Recruitment And Selection</a>
4211.2	<a href="#">Legal Status Requirement</a>
4211.2	<a href="#">Legal Status Requirement</a>
4212.4	<a href="#">Health Examinations</a>
4212.41	<a href="#">Employee Drug Testing</a>
4212.41	<a href="#">Employee Drug Testing</a>
4212.6	<a href="#">Personnel Files</a>
4212.8	<a href="#">Employment Of Relatives</a>
4212.9	<a href="#">Employee Notifications</a>
4212.9-E(1)	<a href="#">Employee Notifications</a>
4213.5	<a href="#">Working Remotely</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4218.1	<a href="#">Dismissal/Suspension/Disciplinary Action (Merit System)</a>
4219.1	<a href="#">Civil And Legal Rights</a>
4219.11	<a href="#">Sexual Harassment</a>
4219.11	<a href="#">Sexual Harassment</a>
4219.12	<a href="#">Title IX Sexual Harassment Complaint Procedures</a>
4219.12-E(1)	<a href="#">Title IX Sexual Harassment Complaint Procedures</a>
4219.22	<a href="#">Dress And Grooming</a>
4219.23	<a href="#">Unauthorized Release Of Confidential/Privileged Information</a>
4219.41	<a href="#">Employees With Infectious Disease</a>
4231	<a href="#">Staff Development</a>
4244	<a href="#">Complaints</a>
4244	<a href="#">Complaints</a>
4251	<a href="#">Employee Compensation</a>
4254	<a href="#">Health And Welfare Benefits</a>
4254	<a href="#">Health And Welfare Benefits</a>
4261.5	<a href="#">Military Leave</a>
4261.8	<a href="#">Family Care And Medical Leave</a>



4311	<a href="#">Recruitment And Selection</a>
4311.2	<a href="#">Legal Status Requirement</a>
4311.2	<a href="#">Legal Status Requirement</a>
4312.4	<a href="#">Health Examinations</a>
4312.41	<a href="#">Employee Drug Testing</a>
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4312.6	<a href="#">Personnel Files</a>
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4312.9	<a href="#">Employee Notifications</a>
4312.9-E(1)	<a href="#">Employee Notifications</a>
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4319.12	<a href="#">Title IX Sexual Harassment Complaint Procedures</a>
4319.12-E(1)	<a href="#">Title IX Sexual Harassment Complaint Procedures</a>
4319.22	<a href="#">Dress And Grooming</a>
4319.23	<a href="#">Unauthorized Release Of Confidential/Privileged Information</a>
4319.41	<a href="#">Employees With Infectious Disease</a>
4331	<a href="#">Staff Development</a>
4344	<a href="#">Complaints</a>
4344	<a href="#">Complaints</a>
4351	<a href="#">Employee Compensation</a>
4354	<a href="#">Health And Welfare Benefits</a>
4354	<a href="#">Health And Welfare Benefits</a>
4361.5	<a href="#">Military Leave</a>
4361.8	<a href="#">Family Care And Medical Leave</a>
9000	<a href="#">Role Of The Board</a>
9321	<a href="#">Closed Session</a>
9321-E(1)	<a href="#">Closed Session</a>
9321-E(2)	<a href="#">Closed Session</a>