

## NONDISCRIMINATION IN EMPLOYMENT

The County Superintendent is determined to provide a safe, positive environment where all 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, *employees* include job applicants, interns, volunteers, and persons who contracted with the Office to provide services, as applicable.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 3312 - Contracts)*

*(cf. 3600 – Consultants)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

No Office 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 the employee's actual or perceived race, color, ancestry, national origin, immigration status, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, sex, sexual orientation, gender, gender identity, gender expression, or association with a person or group with one or more of these actual or perceived characteristics. These terms are defined by state or federal statute.

*(cf. 0410 - Nondiscrimination in LACOE Programs and Activities)*

The Office 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 it is necessary to comply with federal immigration law. (2 CCR 11028)

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. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment

*(cf. 4151/4251/4351 - Employee Compensation)*

*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is 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 individual's work performance or creating an intimidating, hostile, or offensive work environment

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

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 an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status

*(cf. 4033 - Lactation Accommodation)*  
*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

- b. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on the Office's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement

*(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)*

- c. Requirement for a medical or psychological examination of a job applicant, or 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

*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*

- 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

*(cf. 4032 - Reasonable Accommodation)*

The County Superintendent also prohibits retaliation against any Office employee who opposes any discriminatory employment practice by the Office or its employees, agents, or representatives or who complains, testifies, assists, or in any way participates in the Office'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)

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign any document that releases the employee's right to file a claim against the Office or to disclose information about harassment or other unlawful employment practices. (Government Code 12964.5)

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

The County Superintendent designates the following position as Coordinator for Nondiscrimination in Employment: Labor Relations Advocate. The Labor Relations Advocate may be contacted at 12830 Columbia Way, Downey CA 90242, telephone number: (562) 922-6552, e-mail address: HRSLaborRelationsStaff@lacoed.edu

Complaints regarding employment discrimination, harassment, or retaliation 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, including harassment of an employee by a nonemployee, shall report the incident to the County Superintendent or designated Office Coordinator as soon as practical after the incident. All other employees shall promptly report such incidents to their supervisor or division director, if these individuals are not themselves involved. Alternatively, an employee may always report any claim of discrimination to either Labor Relations or the Chief Academic Administration Officer. The Office shall protect any employee who reports such incidents from retaliation.

Any Office 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. 4118 - Dismissal/Suspension/Disciplinary Action)*

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

**Training and Notifications**

The County Superintendent will provide leadership and assistance in building an environment in which opportunity for employment is equalized. LACOE establishes as an inclusive, positive workplace where all cultures and differences are valued.

LACOE shall use all appropriate means to reinforce LACOE's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately, and components of LACOE's policies and regulations regarding discrimination.

LACOE may also provide bystander intervention training to employees, which includes information and practical guidance on how to recognize potentially problematic behaviors, which may motivate employees 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)

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

The County Superintendent or designee shall regularly review the Office's employment practices and, as necessary, shall take action to ensure Office compliance with the nondiscrimination laws.

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

LACOE shall publicize its 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)

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

LACOE's policy shall also be posted on LACOE's web site, and LACOE shall provide easy access to this policy through LACOE supported social media, when available.

*(cf. 1113 - Websites)*

*(cf. 1114 – LACOE Approved Social Media)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

In addition, the County Superintendent or designee shall display in a prominent and accessible location at every work site where the Office has employees and post electronically in a conspicuous location on computers for employee use, up-to-date California Department of Fair Employment and Housing (DFEH) 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)

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

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

LACOE shall disseminate the Office'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 of the policy to all employees, with an acknowledgment form for each employee to sign and return
- b. Sending the policy via email with an acknowledgment return form
- c. Posting the policy on the Office intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
- d. Discussing the policy with employees upon hire and/or during a new hire orientation session

**NONDISCRIMINATION IN EMPLOYMENT** (continued)

- e. Any other way that ensures employees receive and understand the policy

*Legal Reference:**EDUCATION CODE**200-262.4 Prohibition of discrimination**CIVIL CODE**51.7 Freedom from violence or intimidation**GOVERNMENT CODE**11135 Unlawful discrimination**11138 Rules and regulations**12900-12996 Fair Employment and Housing Act, , especially:**12940-12952 Unlawful employment practices**12960-12976 Unlawful employment practices; complaints**PENAL CODE**422.56 Definitions, hate crimes**CODE OF REGULATIONS, TITLE 2**11006-11086 Discrimination in employment, especially:**11013 Recordkeeping**11019 Terms, conditions and privileges of employment**11023 Harassment and discrimination prevention and correction**11024 Sexual harassment training and education**11027-11028 National origin and ancestry discrimination**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**2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008**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**Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863**Shephard v. Loyola Marymount, (2002) 102 Cal.App.4th 837**Management Resources (continued next page)*

**NONDISCRIMINATION IN EMPLOYMENT (continued)**

*Management Resources (continued)*

*Management Resources:*

*CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS*

*California Law Prohibits Workplace Discrimination and Harassment*

*Transgender Rights in the Workplace*

*Workplace Harassment Guide for California Employers*

*Your Rights and Obligations as a Pregnant Employee*

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

*Notice of Non-Discrimination, August 2010*

*U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS*

*EEOC Compliance Manual*

*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>*

*U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>*

*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*

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

*Notice of Non-Discrimination, January 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>*

*U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>*