

**NONDISCRIMINATION IN EMPLOYMENT**

The Merced County Office of Education (MCOE) is determined to provide employees, interns, volunteers, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all MCOE employees and, to the extent required by law, to interns, volunteers, and job applicants.

*(cf. 1240 – Volunteer Assistance)*  
*(cf. 4111/4211/4311 – Recruitment and Selection)*

No MCOE employee shall be discriminated against or harassed 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, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation or their association with a person or group with one or more of these actual or perceived characteristics.

*(cf. 0410 – Nondiscrimination in MCOE Programs and Activities)*

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
2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training

*(cf. 4151/4251/4351 - Employee Compensation)*  
*(cf. 4154/4254/4354 - Health and Welfare Benefits)*

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
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)*

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- b. Religious creed discrimination based on an employee's religious belief or observance, including their religious dress or grooming practices, or based on the MCOE'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. Disability discrimination based on a MCOE 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. Disability discrimination based on the MCOE's 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, to determine effective reasonable accommodations for the employee, when they have requested reasonable accommodation for a known physical or mental disability or medical condition

*(cf. 4032 - Reasonable Accommodation)*

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

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the County Superintendent or designated MCOE coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The MCOE shall protect any employee who does report such incidents from retaliation.

The County Superintendent or designee shall use all appropriate means to reinforce the MCOE's nondiscrimination policy. They shall provide training and information to employees about how to recognize harassment, discrimination, or other related conduct, how

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to respond appropriately, and components of the MCOE's policies and regulations regarding discrimination. The County Superintendent or designee shall regularly review the MCOE's employment practices and, as necessary, shall take action to ensure MCOE compliance with the nondiscrimination laws.

In addition, the County Superintendent or designee shall post, in a conspicuous place on MCOE premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

Any MCOE 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, shall be in violation of this policy and shall be subject to disciplinary action, up to and including dismissal.

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

*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

PENAL CODE

422.56 Definitions, hate crimes

CODE OF REGULATIONS, TITLE 2

11006-11086 Discrimination in employment

11013 Recordkeeping

11019 Terms, conditions and privileges of employment

11023 Harassment and discrimination prevention and correction

11024 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education

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

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*Legal Reference: (continued)*

*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 CalApp.4<sup>th</sup> 837*

*Management Resources:*

*CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS*  
*California Law Prohibits Workplace Discrimination and Harassment, December 2014*  
*U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS*  
*Questions and Answers: Religious Discrimination in the Workplace, 2008*  
*New Compliance Manual Section 15: Race and Color Discrimination, April 2006*  
*Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999*  
*U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS PUBLICATIONS*  
*Notice of Non-Discrimination, August 2010*  
*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>*