

Policy 4030: Nondiscrimination In Employment

Status: ADOPTED

Original Adopted Date: 05/07/2020 | **Last Revised Date:** 06/16/2022 | **Last Reviewed Date:** 06/16/2022

The Governing Board is determined to provide a safe, positive environment where all Eden Area Regional Occupational Program (Eden Area ROP) 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 Eden Area ROP to provide services, as applicable.

(cf. 1240 - Volunteer Assistance)

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

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

No Eden Area ROP 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, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military 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.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

The Eden Area ROP 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 the Eden Area ROP is required to do so in order 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. 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 adverse employment actions, 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 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 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 Eden Area ROP'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. 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

(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 Board also prohibits retaliation against any Eden Area ROP employee who opposes any discriminatory employment practice by the Eden Area ROP or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the Eden Area ROP'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 release of the employee's claim or right to file a claim against the Eden Area ROP 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)

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, including harassment of an employee by a nonemployee, shall report the incident to the Superintendent or designated Eden Area ROP Superintendent or designee as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

The Superintendent or designee shall use all appropriate means to reinforce the Eden Area ROP'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 Eden Area ROP's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the Eden Area ROP's employment practices and, as necessary, shall take action to ensure Eden Area ROP compliance with the nondiscrimination laws.

Any Eden Area ROP 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)

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 References

Description

2 CCR 11006-11086

Discrimination in employment -
<https://simbli.eboardsolutions.com/SU/jUNOUneBGplusu4fVMYTIWMKA==>

2 CCR 11023

Harassment and discrimination prevention and correction -
<https://simbli.eboardsolutions.com/SU/haAgKnrQhVJbslsh34hY5zslsh5Q==>

2 CCR 11024

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation -
<https://simbli.eboardsolutions.com/SU/WdslshVrKs4pluscfHplushNGLhCeQw==>

2 CCR 11027-11028	National origin and ancestry discrimination - https://simbli.eboardsolutions.com/SU/SYk7u9LttH4epGWfUlfjdg==
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 - https://simbli.eboardsolutions.com/SU/biK5w5xHjaslshApluscWXhrJ7ZQ==
Ed. Code 200-262.4	Prohibition of discrimination - https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAAbNL6kKkgxQ==
Gov. Code 11135	Prohibition of discrimination - https://simbli.eboardsolutions.com/SU/PcUFWeMcCJnzBrKALOEtfQ==
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

Federal References

	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	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

Management Resources References

	Description
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) 102 Cal.Appl 4th 837
Court Decision	Thomson v. North American Stainless LP, (2011) 131 S.Ct. 863
U.S. DOE Office for Civil Rights Publication	Notice of Non-Discrimination, August 2010
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	EEOC Compliance Manual
Website	CSBA District and County Office of Education Legal Services - https://simbli.eboardsolutions.com/SU/UdykszdmPETuDsIshXk6R5akQ==
Website	California Department of Fair Employment and Housing - https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyI8K40jw==
Website	U.S. Department of Education, Office for Civil Rights - https://simbli.eboardsolutions.com/SU/xmCPrTcoZle111WmbX10Vg==
Website	U.S. Equal Employment Opportunity Commission - https://simbli.eboardsolutions.com/SU/vWZpgy5hWTz73t9BVEDPpA==

Cross References

Description

0410	Nondiscrimination In District Programs And Activities - https://simbli.eboardsolutions.com/SU/e50nGqNuG7jQfN4N7E4ONA==
0470	COVID-19 Mitigation Plan - https://simbli.eboardsolutions.com/SU/lkd0OQyrdn0CMAAnaMO7MAw==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/6eqaGIraNiZIWJNVmplusi2A==
1113	District And School Web Sites - https://simbli.eboardsolutions.com/SU/H2plusFDdQcslsh06TQUsCBPyRyw==
1113-E PDF(1)	District And School Web Sites - https://simbli.eboardsolutions.com/SU/2ID6yollRgZV45k7tJtFzQ==
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/DrRYIAkWzbu02sJcWkya9Q==
1114	District-Sponsored Social Media - https://simbli.eboardsolutions.com/SU/4rkxjWrEmitNQNDmUsIsho2o2A==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/grfk2plusfzw2DJWZ6WMvvpA==
1240	Volunteer Assistance - https://simbli.eboardsolutions.com/SU/YCbehdu5XHV0vJxUuUnGiw==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/88k1jAFO5XTBbjmYVcdcJw==
1312.1	Complaints Concerning District Employees - https://simbli.eboardsolutions.com/SU/UfrRhTFRxuKf8z4GXGxqRg==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/NCIIO1x8xFCdtQRniKVFQQ==
1312.3	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/BA1WWI3efmsIshPOPghyV4WnQ==
1312.3-E PDF(1)	Uniform Complaint Procedures - https://simbli.eboardsolutions.com/SU/W6rvYg4mauU6zHehPSApOQ==
1313	Civility - https://simbli.eboardsolutions.com/SU/BxJMQDuDpEErhDnhTU2k1g==
3312	Contracts - https://simbli.eboardsolutions.com/SU/BsUoTGuo9tq9FUeplusgoPI9Q==
3530	Risk Management/Insurance - https://simbli.eboardsolutions.com/SU/Ff4ia0AAsaMygDrG5pM2hQ==

3530 Risk Management/Insurance -
<https://simbli.eboardsolutions.com/SU/hoPekPtWQxdUX1FtAxVw0w==>

3580 District Records -
<https://simbli.eboardsolutions.com/SU/BVBOZJc6bUBBVUHXL3OHsw==>

3580 District Records -
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3600 Consultants -
<https://simbli.eboardsolutions.com/SU/coKmzpWaJpl8LkLTNHNi5g==>

4000 Concepts And Roles -
<https://simbli.eboardsolutions.com/SU/9Pyvflsh2ubiT9xmfH2QpeQ==>

4032 Reasonable Accommodation -
<https://simbli.eboardsolutions.com/SU/eK452M5kQnYGHd40xSsBPA==>

4033 Lactation Accommodation -
<https://simbli.eboardsolutions.com/SU/pMDebdpBYqwcfxR4MHP2Kg==>

4111 Recruitment And Selection -
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4111.2 Legal Status Requirement -
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4111.2 Legal Status Requirement -
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4112.4 Health Examinations -
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4112.6 Personnel Files -
<https://simbli.eboardsolutions.com/SU/38uY6urbUXfplus8GEHEmuDTQ==>

4112.8 Employment Of Relatives -
<https://simbli.eboardsolutions.com/SU/o1z7Typlus5uslshdLslshKYteEqR0w==>

4112.9 Employee Notifications -
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4112.9-E PDF(1) Employee Notifications -
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4118 Dismissal/Suspension/Disciplinary Action -
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4119.1 Civil And Legal Rights -
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4119.11 Sexual Harassment -
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4119.11 Sexual Harassment -
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4119.11-E PDF(1) Sexual Harassment -
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4119.12 Title IX Sexual Harassment Complaint Procedures -
<https://simbli.eboardsolutions.com/SU/ZDpcR4FbgeFJfnThO6Tcvw==>

4119.12-E PDF(1) Title IX Sexual Harassment Complaint Procedures -
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4119.22 Dress And Grooming -
<https://simbli.eboardsolutions.com/SU/l6qk8RhfplusplusAmmlHT6ym6Jw==>

4119.23 Unauthorized Release Of Confidential/Privileged Information -
<https://simbli.eboardsolutions.com/SU/plusx7quVYJcRgCQGf9vm10iQ==>

4119.41 Employees With Infectious Disease -
<https://simbli.eboardsolutions.com/SU/PvfT8K5PSplus0tb6PTidzaBw==>

4131 Staff Development -
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4131 Staff Development -
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4144 Complaints -
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4144 Complaints -
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4151 Employee Compensation -
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4154 Health And Welfare Benefits -
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4154 Health And Welfare Benefits -
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4161.8 Family Care And Medical Leave -
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4211 Recruitment And Selection -
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4211.2 Legal Status Requirement -
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4218 Dismissal/Suspension/Disciplinary Action -
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4219.1 Civil And Legal Rights -
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4219.11 Sexual Harassment -
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4219.12 Title IX Sexual Harassment Complaint Procedures -
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4219.12-E PDF(1) Title IX Sexual Harassment Complaint Procedures -
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4219.22 Dress And Grooming -
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4219.23 Unauthorized Release Of Confidential/Privileged Information -
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4219.41 Employees With Infectious Disease -
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4231 Staff Development -
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4244 Complaints -
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4244 Complaints - <https://simbli.eboardsolutions.com/SU/Ojld2dnxGJxfgw6RsewdNg==>

4251 Employee Compensation -
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4254 Health And Welfare Benefits -
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4261.8 Family Care And Medical Leave -
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4311 Recruitment And Selection -
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4311.2 Legal Status Requirement -
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4312.4 Health Examinations -
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4312.6 Personnel Files -
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4312.8 Employment Of Relatives -
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4312.9 Employee Notifications -
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4312.9-E PDF(1) Employee Notifications -
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4319.1 Civil And Legal Rights -
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4319.11-E PDF(1) Sexual Harassment -
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4319.12 Title IX Sexual Harassment Complaint Procedures -
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4319.41 Employees With Infectious Disease -
<https://simbli.eboardsolutions.com/SU/QUiyaTmoumjZgB5aR9hglQ==>

4331 Staff Development -
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4344 Complaints -
<https://simbli.eboardsolutions.com/SU/81islshPFcSeJaoFtislshzpmvsRg==>

4344 Complaints - <https://simbli.eboardsolutions.com/SU/EpF4T2e1sCscykw5uttqlw==>

4351 Employee Compensation -
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4354 Health And Welfare Benefits -
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4354 Health And Welfare Benefits -
<https://simbli.eboardsolutions.com/SU/3s41x2FYSKTCvpamMOTQsg==>

4361.8 Family Care And Medical Leave -
<https://simbli.eboardsolutions.com/SU/zJdoLemo8XplusHHfSwbqeJVA==>

9000 Role Of The Board -
<https://simbli.eboardsolutions.com/SU/7ycRID3oKqdPgEslshplus6tolGQ==>

9321 Closed Session -
<https://simbli.eboardsolutions.com/SU/MyQpluss80rgctiYYBVNvOKslshg==>

9321-E PDF(1) Closed Session -
<https://simbli.eboardsolutions.com/SU/RwgA7Wt3wpjixYEyaslshplusvhQ==>