

Administrative Regulation

PERSONNEL: GENERAL

Equal Employment Opportunity; Affirmative Action in Employment & Contracting; Harassment Prohibited

Administrative guidelines 4013 address sexual harassment. These administrative guidelines address: (1) equal affirmative action for employment opportunity; (2) contractors' affirmative action program for minority employment; and, (3) unlawful harassment.

As an equal opportunity employer, Berryessa Union School District shall follow practices which are directed toward the assurance that no barriers exist to employment, development, advancement, and treatment of employees on the basis of creed, national origin, race/ethnicity, gender, sexual orientation, age, citizenship, or challenging condition.

I. Intent

It is the intent of the Administration that:

- A. Employment and advancement within the District shall be freely open to all persons regardless of creed, national origin, race/ethnicity, gender, age, citizenship, or challenging conditions.
- B. Aggressive efforts shall be made to recruit members of minority communities and women on administrative levels of the work force.
- C. Personnel programs shall be administered in a manner which shall insure no barriers to promotion, transfer assignments, retentions, or training on the basis of gender, race/ethnicity, national origin, creed, age, citizenship, or handicapping condition.
- D. The goal of the District is to establish and maintain a staff which is reflective of the student population in racial/ethnic balance.
- E. A Racial/Ethnic/Gender Survey will be taken annually. Results will be reported to the Board of Trustees by March 15th of each year.

II. Criteria

The following criteria will be used in determining an appropriate balance of personnel:

- A. Assessment of under-represented groups in all employment classifications.
- B. Representation of diverse minority groups within the staff and bilingual skills for specific occupational qualifications if job related.

- C. Representation of diverse minority groups and women at the supervisory and administrative levels.
- D. Selection and assignment of minorities and men to assure distribution among schools of the District with particular attention to men in the primary grades.

III. Implementation

The District will develop an aggressive system to recruit and identify minority, female, and challenged applicants, and compile data to determine if inequities exist within the work force with particular reference to compensation, job responsibility, training, and promotion.

- A. Other factors being equal, priority shall be given to minority applicants for positions to which the assignment of a minority candidate is considered advantageous.
- B. Every possible effort shall be made to encourage the opportunity for training and recruitment of minority personnel where under-utilization of women or men and minorities exists and to determine the causes for such under-utilization.

IV. Procedures

- A. The district will actively seek to correct under-representation by publicizing vacancies as widely as practical in order to attract the best possible candidates.
- B. The District will encourage staff members to refer to the Personnel Office candidates they believe to be qualified for positions in the District where parity does not exist.
- C. The District will actively seek and employ minority and male/female in all job classifications where disparities exist in the District.
- D. The District will actively recruit minority substitutes for all job classifications.

V. Responsibilities

A. The Superintendent

1. Makes clear the intent of the Affirmative Action Program, the office's commitment to the program, and the duties and responsibilities of principals and supervisors under the program.
2. Provides for special training for school Principals, Supervisors, and Department Heads.
3. Ensures that Principals and Supervisors or Department Heads are implementing the Affirmative Action Program in their individual units.
4. Provides all necessary staff support to the Affirmative Action Program.

5. Evaluates the efforts of unit heads (Principals, Supervisors, Department Heads).

B. Assistant Superintendent of Personnel

1. Coordinates the Affirmative Action Policy at all levels.
2. Publicizes vacancies and job specifications through appropriate agencies to give maximum opportunity for minority and women recruitment at all levels of employment, including males at the elementary level. Recruitment procedures will be clearly defined and available to the public in the Personnel Office.
3. Evaluates personnel practices and selection processes that are discriminatory or place artificial barriers to employment of persons in all classifications. Evaluations of all personnel procedures will include and emphasize the critical and unique employment problems faced by minority women.
4. Provides a record-keeping system which allows for applicant flow analysis. Holds exit interviews whenever possible.

C. Affirmative Action Officer

1. Coordinates the Affirmative Action Policy at all levels.
2. Assists in developing and recommending inservice programs and workshops for staff to help in promoting the concept, goals, and procedures of the Affirmative Action Policy.
3. Provides information to the community and any requesting organization on policy and operational procedures of Affirmative Action progress.
4. Evaluates personnel practices and selection processes that are discriminatory or place artificial barriers to employment of persons in all classifications. Evaluations of all personnel procedures will include and emphasize the critical and unique employment problems faced by minority women.

D. Principals, Supervisors, and Department Heads

1. It shall be the responsibility of all administrators, supervisors, and department heads to see that the Affirmative Action Program is implemented in their schools, departments, or programs. Specifically, administrators and supervisors must:
 - a. Supply the Assistant Superintendent of Personnel with data on their work force as the Assistant Superintendent of Personnel may request.
 - b. Report any discrimination problem or policy conflicts to the Superintendent, and the Personnel Department.
 - c. Inform employees and prospective employees of the District's Affirmative Action Policy and Regulations.

UNLAWFUL HARASSMENT

1. Harassment Prohibited

Harassment of employees and applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex, by district administrators or employees is prohibited.

Employees who believe they have experienced prohibited harassment may file a complaint under these guidelines or the Board's Miscellaneous Complaint Policy. Employees who have committed prohibited harassment will be disciplined in accordance with law and established procedures.

2. Harassment Defined

- A. Harassment is defined as verbal, visual, or physical conduct or communication, including name-calling of a district employee by another district employee based on the harassed employee's race, religious creed, color, national origin, ancestry, disability, marital status, gender, or age.
1. "Verbal harassment" includes epithets, including name-calling, and other derogatory comments or slurs concerning the race, religious creed, color, national origin, ancestry, disability, marital status, gender, or age of persons who hear them.
 2. "Physical harassment" includes assault, battery, impeding or blocking movement, and any other physical interference with normal work or movement that is directed at an individual on the basis of the harassed individual's race, religious creed, color, national origin, ancestry, disability, marital status, gender, or age.
 3. "Visual harassment" includes posters, notices, bulletins, cartoons, drawings, graffiti, pictures, videos, and other visual media that derogate the race, religious creed, color, national origin, ancestry, disability, marital status, gender, or age of any person who observes them.
- B. Harassment also includes any act of retaliation against an employee for reporting violations of this policy or for assisting or participating in the investigation of a harassment complaint.
- C. Harassment does not include speech or other forms of communication protected by the First Amendment to the United States Constitution or by Article 1, Section 2 of the California Constitution.
- D. The district will take disciplinary action up to and including termination against any district employee who harasses another district employee or applicant for employment in violation of these guidelines.

E. Sexual harassment is covered by policy and administrative guidelines 4013.

3. Supervisors' and Managers' Responsibility

District supervisory and management employees shall enforce the district's harassment prohibition and shall promptly report all harassment complaints they receive from employees to the Superintendent's Office. A supervisor's or manager's failure to report a harassment complaint is grounds for discipline.

4. Confidentiality

The district will respect the confidentiality of the complainant, the individuals(s) against whom the complaint is made, and any witnesses to the greatest extent possible, consistent with the district's legal obligations and the need to investigate harassment allegations and to take remedial and corrective action.

5. Complaint

A. The district recognizes that some forms of harassment may be resolved through open discussion between the individuals involved. The district encourages any employee who believes that he or she has been harassed to directly inform the harasser that the conduct is unwelcome and must stop. The district encourages any co-worker or other employee who witnesses prohibited harassment to intervene on the victim's behalf and immediately report the harassing conduct. The district does not, however, require either the victim or witnesses to confront the harasser.

B. The district asks all employees who believe they have been harassed by another district employee, and any persons who know or believe that they have knowledge of conduct that may constitute harassment prohibited under these guidelines, to report the alleged conduct to their immediate supervisor, to any other district supervisor or manager, or to the Superintendent's Office. Reporting acts of harassment immediately will enable the district to take corrective action and to take steps to prevent additional harassment.

1. The report may be verbal or written. Using a formal complaint form is not required, although one is available in each school office, the district personnel office, or the Superintendent's Office if the employee wants to use a written form.

2. A supervisory or management employee receiving a written harassment complaint from a district employee shall immediately forward it to the Superintendent's Office. A supervisory or management employee receiving a verbal complaint shall immediately notify the Superintendent's Office, reduce the complaint to writing, and within a reasonable time after receiving the complaint, forward a written report to the Superintendent's Office. Failure to report the complaint as required shall be grounds for discipline.

C. The Superintendent will investigate harassment complaints under the district's Miscellaneous Complaint Policy. The time limits stated in administrative guidelines under

that policy may be waived by agreement of the district and complainant.

6. Report

The administrator or designee investigating the complaint shall prepare a written report that:

- describes the circumstances giving rise to the complaint;
- describes the complainant's allegations;
- describes the accused's response;
- summarizes the testimony provided by other persons interviewed, including any witnesses the complainant or the accused identified;
- concludes whether persons interviewed are credible;
- describes any other factual information the investigator deems appropriate;
- reports findings of fact and supporting evidence;
- concludes whether prohibited harassment did or did not occur with respect to each allegation in the complaint; and
- recommends corrective action.

7. Reprisals and Retaliation Forbidden

The district will discipline any employee who retaliates against any person who: (1) reports alleged harassment; or (2) assists or participates in an investigation or proceeding relating to a harassment complaint. Retaliation includes all forms of intimidation, reprisal, or harassment.

8. Employee's Right to Alternative Complaint Procedures

- A. The procedures contained in this policy are intended to supplement and not replace any applicable state and federal laws and regulations governing employee rights. Any district employee may seek the remedies available under state and federal law by filing formal complaints with the following state and federal agencies:

Department of Fair Employment and Housing Headquarters
2014 T Street, Suite 210
Sacramento, California 95814

Equal Employment Opportunity Commission (EEOC)
96 North 3rd St.
San Jose, California 95112

B. Employees who believe they have experienced sexual harassment may file a complaint under district policy and administrative guidelines 4013.

9. Notice to Employees

The Superintendent shall inform district employees of their right to be free from prohibited harassment under state and federal law. The Superintendent shall see that employees are aware of these guidelines and understand that persons who are subjected to prohibited harassment may freely complain about that conduct to district officials who will promptly and thoroughly investigate their complaints, and that persons who engage in prohibited harassment will be appropriately disciplined.

Legal reference:

Title VII of the 1964 Civil Rights Act
California Government Code Section 12940
2 California Code of Regulations Section 7287.6 (b)

Approved: October, 1983
Revised: April 20, 1993
Revised: July 15, 1997

State/Local Fair Employment Practice (FEP) Agencies:

Department of Fair Employment and Housing Headquarters

2014 T Street, Suite 210
Sacramento, California 95814
(916) 739-4626

District and Field Offices

1001 Tower Way, Suite 250
Bakersfield, California 93309
(805) 395-2728

1900 Mariposa Mall, Suite 130
Fresno, California 93721
(209) 445-5373

322 West First Street, Room 2126
Los Angeles, California 90012
(213) 897-1997

1330 Broadway, Suite 1326
Oakland, California 94612
(510) 464-4095

2000 "O" Street, Suite 120
Sacramento, California 95814
(916) 445-9918

1845 S. Business Center Drive, Suite 127
San Bernardino, California 92408
(714) 383-4711

110 W. "C" Street, #1702
San Diego, California 92101
(619) 237-7405

111 N. Market Street, Suite 810
San Jose, California 95113
(408)277-1264

28 Civic Center Plaza, Room 538
Santa Ana, California 92701
(714) 558-4159

5720 Ralston Street, Suite 302
Ventura, California 93003
(805) 654-4513

Equal Employment Opportunity Commission (EEOC) District/Area Offices

Fresno Local Office (San Francisco District)
1313 "P" Street, Suite 103
Fresno, California 93721
(209) 487-5793

Los Angeles District Office
3660 Wilshire Blvd., 5th Floor
Los Angeles, California 90010
(213) 251-7178

Oakland Local Office (San Francisco District)
1333 Broadway, Room 430
Oakland, California 94612
(510) 273-7588

San Diego Area Office (Los Angeles District)
401 B Street, Suite 1550
San Diego, California 92101
(619) 557-7235

San Jose Local Office (San Francisco District)
96 North 3rd Street
San Jose, California 95112
(408) 291-7352

San Francisco District Office
901 Market Street, Suite 500
San Francisco, California 94103
(415) 744-6500