

All Personnel

RETALIATION

**BP 4119.12
4219.12
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The Pasadena Unified School District (“District”) has zero tolerance for any retaliation against its employees who engage in protected activity, which includes complaining, testifying, assisting, or otherwise participating in good faith in any federal, state, or other complaint investigatory process, proceeding, or hearing of alleged discrimination or other alleged unlawful activity that violates federal or state law or District Board Policy (“BP”) and/or Administrative Regulation (“AR”) or who oppose conduct or an employment practice reasonably believed to be unlawful, such as discrimination. An employee’s participation in these activities is protected and encouraged by the District.

With a focus on ensuring an employment and education environment free from discrimination, the District will take all necessary and immediate action to prevent and correct activities that violate this retaliation policy. Any District employee who engages or participates in retaliation or who aids, abets, incites, compels, or coerces another to retaliate against an employee is in violation of this policy and is subject to disciplinary action up to and including dismissal.

Some examples of protected activity include, but are not limited to, an employee’s participation in a federal government investigation involving an alleged violation of Title VI of the 1964 Civil Rights Act of 1964 (“Title VI”) (prohibiting discrimination based on race, color, or national origin (including English Language Learner (“ELL”) students)), Title II and V of the Americans with Disabilities Act (“ADA”) (prohibiting discrimination based on disability), or the Equal Educational Opportunities Act (ensuring, among other protections, that appropriate educational services are provided to ELL students). Other examples of protected activity include the filing of a complaint with or otherwise participating in a state investigation conducted by the California Department of Fair Employment and Housing (“DFEH”) concerning discrimination based on a protected status or the filing of a complaint under state law providing whistleblower protection such as the Reporting of School Employees of Improper Governmental Activities Act.

An employee is retaliated against when he or she suffers an adverse employment action after he or she participates in a protected activity, where the adverse action is causally connected to the protected activity. Some examples of adverse employment actions may include, but are not limited to: termination, demotion, suspension, loss of pay, undeserved negative performance evaluation, refusal to consider for promotion, unwarranted lateral

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transfer, change in work schedule or job reassignment, or any other employment action that would deter a reasonable employee from participating in a protected activity. Annoyances, inconveniences, and petty slights at the workplace are not adverse actions.

The Chief Human Resources Officer or designee will take all actions necessary to ensure the prevention, investigation, and correction of retaliation, including but not limited to:

1. Providing training to employees in accordance with the law and administrative regulation.
2. Publicizing and disseminating the District's retaliation policy to its staff.
3. Ensuring prompt, thorough, and fair investigation of complaints.
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the individual who is the subject of the complaint and subsequent monitoring of developments.

All complaints and allegations of retaliation shall be kept confidential during the complaint procedure except when disclosure is necessary during the investigatory process to take subsequent corrective action.

Any District employee who feels that he/she has been retaliated against or has knowledge of any incident of retaliation by or against another employee shall promptly report the incident to his or her supervisor, the District's Chief Human Resources Officer, or the Superintendent. A supervisor, principal, or other administrator who receives a retaliation complaint shall promptly notify the District's Chief Human Resources Officer or the Superintendent.

Complaints of retaliation shall be filed in accordance with AR 4031 – Complaints Concerning Discrimination in Employment. Under no circumstances shall an employee be required to submit a complaint to an individual in his or her direct line of supervision who is either a subject of the complaint or a witness to the allegations of the complaint. An employee may choose to submit a complaint to the next appropriate level or directly to the Chief Human Resources Officer.

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Legal Reference:

EDUCATION CODE

200, et seq. – Educational Equity

44110, et seq. – Reporting of School Employees of Improper Governmental Activities Act

GOVERNMENT CODE

12900, et seq. – Fair Employment and Housing Act, especially:

12940(h) – Prohibition against retaliation

UNITED STATES CODE, TITLE 42

2000d-2000d-7 – Title VI, Civil Rights Act of 1964

2000e-2000e-17 – Title VII, Civil Rights Act of 1964, as amended, especially:

2000e-3(a) – Prohibition against retaliation

12201, et seq. – Americans with Disabilities Act of 1990, as amended, especially:

12203(a) – Prohibition against retaliation

UNITED STATES CODE, TITLE 20

1681-1688 – Title IX, Education Amendments of 1972

CODE OF FEDERAL REGULATIONS, TITLE 34

100.7(e) – Prohibition against retaliation (Title VI)

COURT DECISIONS

Jackson v. Birmingham Board of Education, 544 U.S. 167, 125 S.Ct. 1497 (2005)

Management Resources

WEB SITES

California Department of Fair Employment and Housing, www.dfeh.ca.gov

Civil Rights Division, U.S. Department of Justice, www.justice.gov/crt

Office for Civil Rights, U.S. Department of Education, www.ed.gov/ocr

U.S. Equal Employment Opportunity Commission, www.eeoc.gov

Policy

Adopted: June 24, 2014

PASADENA UNIFIED SCHOOL DISTRICT

Pasadena, California