

# Emery County School District



## Policy AC—Employment Objectives: Nondiscrimination

Date Adopted:

Current Review / Revision: **First Reading October 8**

### General Nondiscrimination—

The District shall not, because of an individual's race; color; sex; pregnancy, childbirth or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability or handicap; sexual orientation; or gender identity:

1. Discharge, demote, terminate, retaliate against, harass, or refuse to hire or to promote any otherwise qualified individual; or,
2. Discriminate against an otherwise qualified individual with respect to compensation or in terms, privileges, and conditions of employment.

[Utah Code § 34A-5-106\(1\)\(a\)\(i\) \(2016\)](#)

### District Policy—

The Board of Education of the \_Emery County\_ School District does not discriminate on the basis of sex in its programs and activities and is required by Title IX and 34 CFR Part 106 not to discriminate on the basis of sex, including but not limited to such discrimination in employment and in admission.

Notice of this policy shall be given to all applicants for employment, to all employees, and to all employee associations and shall be included in any employee handbooks. Questions about rights under Title IX and about the application of Title IX to the District can be directed to the Title IX Coordinator identified in this policy or to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

[34 CFR § 106.8\(b\)\(1\)](#)

[20 U.S.C. § 1701-21](#)

The District encourages all victims of sex discrimination and persons with knowledge of sex discrimination to immediately report that to the Title IX Coordinator or an administrator. All complainants have the right to be free from retaliation of any kind. Complaints relating to sexual harassment (one form of sex discrimination) are addressed under Policy DKB and Policy FHAB. Complaints regarding other types of sex discrimination may be addressed through the grievance procedures set out in Policy DHC (for employees) and Policy FGE (for students).

[34 CFR § 106.8\(c\)](#)

### Otherwise Qualified—

An individual is not considered "otherwise qualified" unless the individual has the education; training; ability, with and without reasonable accommodation; moral character; integrity; disposition to work; adherence to reasonable rules and regulations; and other job-related qualifications required by the District for the particular job, job classification, or position.

[Utah Code § 34A-5-106\(1\)\(a\)\(ii\) \(2016\)](#)

### Nursing Mothers in the Workplace—

The District may not refuse to hire, promote, discharge, demote, or terminate an individual, or may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of

employment against an individual otherwise qualified because the individual breastfeeds or expresses milk in the workplace.

[Utah Code § 34-49-204 \(2015\)](#)

#### **Title IX Coordinator—**

The District shall designate one or more employees to serve as Title IX Coordinator. The Title IX Coordinator is responsible and has authority to coordinate the District's compliance with Title IX, including but not limited to responding to complaints of sex discrimination. The designated Title IX Coordinator for the District is: Gaylene Erwin\_\_\_\_\_. The contact information for the Title IX Coordinator is:

Name\_\_ Gaylene Erwin\_\_\_\_\_ Title/Position\_\_\_\_\_

Mailing Address\_\_ PO Box 448 Green River, Utah 84525\_\_\_\_\_

Office Email gayleneec@emeryschools.org\_\_\_\_\_ Telephone\_\_ 435-564-8102\_\_\_\_\_

Reports about any form of sex discrimination (including sexual harassment) may be made to the Title IX Coordinator by any person (whether or not the discrimination was directed at that person) using any of the contact methods listed above or by any other means and at any time (including during non-business hours).

[34 CFR § 106.8\(a\)](#)

#### **Retaliation Prohibited—**

It is prohibited to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing relating to any type of sex discrimination. Prohibited retaliation includes acting with the purpose of interfering with any right or privilege secured by Title IX or implementing regulations or this policy by intimidation, threats, coercion, or discrimination. If brought for the purpose of interfering with these rights, prohibited retaliation includes charges against an individual for violations that do not involve sex discrimination but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment. Reports of retaliation should be made to the Title IX Coordinator designated in this policy. Complaints regarding retaliation against a student may be raised under Policy FGE or as applicable under Policy FGAD or regarding retaliation against an employee under Policy DHC or as applicable under Policy DLA or Policy DLB.

[34 CFR § 106.71\(a\)](#)

#### **Confidentiality—**

Except to the extent required to appropriately respond to complaints of sex discrimination, or as required by law, the District shall keep confidential the identity of (a) any individual who reports or complains of sex discrimination (including filing a formal complaint), (b) any individual reported to have perpetrated sex discrimination, and (c) any witness regarding sex discrimination. Except to the extent that maintaining confidentiality would impair the District's ability to provide supportive measures, the District shall keep confidential any supportive measures provided to a complainant or accused individual. (In appropriately responding to complaints of sex discrimination, the District may need to disclose the identity of individuals for purposes of an appropriate investigation and following the grievance process or for purposes of appropriate supportive measures.) Disclosure is also allowed to the extent permitted by FERPA and its implementing regulations.

[34 CFR § 106.71\(a\)](#)

[34 CFR § 106.30\(a\)](#)

Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate authorities and the confidentiality of the information will be maintained as required by [Utah Code § 80-2-1005](#). (See Policy DDA.)

[Utah Code § 80-2-602 \(2022\)](#)

## **Disability—**

No otherwise qualified person with a disability shall, solely on the basis of disability, be subject to discrimination in employment in any of the District's operations so long as any part of its programs and activities receive federal financial assistance.

[29 U.S.C. § 794](#)

## **Definitions—**

“Handicapped person” means any person who has a record of, is regarded as having, or has a physical or mental impairment that substantially limits one or more of life's major activities. A “qualified handicapped person” is a handicapped person who can perform the essential functions of the position in question, with or without reasonable accommodation. Employees or prospective employees have the responsibility of notifying the District personnel office of the need for reasonable accommodations on account of a disability.

[29 U.S.C. § 705\(20\)](#)

[34 CFR § 104.3\(j\)\(1\), \(l\)\(1\)](#)

“Has a record of such an impairment” means has a history of or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

[34 CFR § 104.3\(j\)\(2\)\(iii\)](#)

“Regarded as having an impairment” means:

1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by the District as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment; or
3. Has no physical or mental impairment but is treated by the District as having such an impairment.

[34 CFR § 104.3\(j\)\(2\)\(iv\)](#)

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; endocrine; or
2. Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

[34 CFR § 104.3\(j\)\(2\)\(i\)](#)

“Major life activities” means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

[34 CFR § 104.3\(j\)\(2\)\(ii\)](#)

## **Exceptions—**

The following are not included in the definition of an “individual with a disability” or “handicapped person”:

1. A person who is currently using illegal drugs when the District is acting on the basis of that use.
2. A person who is an alcoholic whose current use of alcohol prevents the person from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to the property or safety of others.

3. A person who has a currently contagious disease or infection and who therefore would constitute a direct threat to the health or safety of other individuals, or who therefore is unable to perform the duties of the job.

[29 U.S.C. § 705\(20\)\(C\)\(i\), \(v\), \(D\)](#)

#### **Section 504 Coordinator—**

The District will designate at least one person to coordinate its efforts to comply with Section 504 of the Vocational Rehabilitation Act of 1973 and its implementing regulations.

[34 CFR § 104.7\(a\)](#)

#### **Notification—**

The District will take appropriate continuing steps to notify applicants and employees that it does not discriminate on the basis of disability in violation of Section 504 of the Vocational Rehabilitation Act of 1973 and its implementing regulations. The notification shall include identification of the designated coordinator, which may be in the following form:

The District designates the following person to coordinate its efforts to comply with Section 504 of the Vocational Rehabilitation Act of 1973:

Name JR Jones Position District Supervisor

Office Address 120 N Main Huntington, Utah 84528

Office Email jrj@emeryschools.org Telephone 435-687-9846

[34 CFR § 104.7\(a\)](#)

#### **Residence—**

The Board shall not require an employee to reside within the District as a condition of employment.

[Utah Code § 53G-4-408 \(2018\)](#)

#### **Duty to Report—**

If any employee of the District knows of or has reason to believe that another employee is being harassed at the workplace by others on the grounds of race; color; sex; pregnancy, childbirth or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability or handicap; sexual orientation; or gender identity, then the employee must promptly report such harassment to the Board. The report shall be made confidentially and the Board shall maintain the confidence of any report of such harassment.

#### **Penalties for Engaging in Harassment—**

Within the discretion of the Board, any employee may be terminated for cause, suspended with or without pay or placed on probation for engaging in any form of harassment of another employee on the grounds of race; color; sex; pregnancy, childbirth or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability or handicap; sexual orientation; or gender identity.

*Baker v. Weyerhaeuser Co., 903 F.2d 1342 (10th Cir. 1990)*

#### **Dissemination of Policy—**

Notice of this policy and of the name and contact information of the Title IX Coordinator shall be provided to applicants for employment or for admission, employees, employee associations, students, and parents of students. The contact information for the Title IX Coordinator shall be prominently displayed on the District's website and in employment application materials and student admission materials. In addition, a copy of this policy shall be published on the District website and included in employment application materials, in student admission materials, in materials

provided to employees, and in student handbooks. A copy of this policy shall also be provided to the appropriate officer of each employee association.

[34 CFR § 106.8\(b\)\(2\), \(c\)](#)