

POLICY 3000

Employment: Nondiscrimination

- A. The District shall not, because of an individual's race, color, sex, pregnancy 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. Refuse to hire or to promote, discharge, demote, terminate, retaliate against or harass any otherwise qualified individual; or
 2. Discriminate against an otherwise qualified individual with respect to compensation or in terms, privileges, or conditions of employment.

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

- B. 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 bona fide job-related qualifications required by the district for the particular job, job classification, or position to be filled or created.

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

C. District Policy

1. The Board of Education of the Box Elder 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.
2. Notice of the 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, Coerina.fife@besd.net, ~~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](#)

3. 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 5275 Sexual Harassment](#) and [Policy 5005 Safe Schools – Student Behavior](#). Complaints regarding other types of sex discrimination may be addressed through the grievance procedures set out in Policy 3043 Redress of Grievances (for employees) and [Policy 5350 Student Complaints - Resolution](#) (for students).

[34 CFR § 106.8\(c\)](#)

- D. The District may not refuse to hire, promote, discharge, demote, or terminate any 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 \(2015\)](#)

- E. The Executive Director of Personnel Services is the designated person to coordinate efforts to comply with Section 504 of the Vocational Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972. The district shall notify all employees of the office address and telephone number of the above named individual.

[34 CFR § 106.8\(a\)](#)

- F. "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 person that, with reasonable accommodations, can perform the essential functions of the job in question. Employees or prospective employees have the responsibility of notifying the district personnel office of need for reasonable accommodations.

[29 U.S.C. § 705\(20\)](#)

[34 CFR § 104.3](#)

- G. "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.
- H. "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.

I. "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.

J. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, communicating, standing, eating, lifting, reading, concentrating, thinking, sleeping, bending, and others.

K. The following are not included in the definition of an "individual with a disability" or a "handicapped person":

1. A person whose current use of illegal drugs prevents the performance of job responsibilities or constitutes a direct threat to the property or safety of others.
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 USC § 705\(20\)\(C\)\(i\), \(iv\), \(D\)](#)

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

- M. No person shall be denied employment in the district by reason of membership or non-membership in any labor organization, labor union or any other type of association.
- N. 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 year 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 Superintendent or Board. The report shall be made confidentially and the Superintendent or Board shall maintain the confidence of any report of such harassment.
- O. 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.
- P. 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 13242 (10th Cir. 1990)